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1854

THE

MISCELLANEOUS WORKS

OF

SIR JAMES MACKINTOSH.

VOL. III.

LONDON:
A. and G. A. SPOTTISWOODE,
New-street-Square.

THE

MISCELLANEOUS WORKS

OF

THE RIGHT HONOURABLE

SIR JAMES MACKINTOSH.

NEW EDITION.

IN THREE VOLUMES.

VOL. III.

LONDON:
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1854.

Richard Hannon
gt.

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Vindiciae Gallicae.

A DEFENCE

OF THE

FRENCH REVOLUTION

AND ITS

ENGLISH ADMIRERS,

AGAINST THE ACCUSATIONS OF

THE RIGHT HON. EDMUND BURKE,

INCLUDING

SOME STRICTURES ON THE LATE PRODUCTION

OF

MONS. DE CALONNE.

INTRODUCTION.

THE late opinions of Mr. Burke furnished more matter of astonishment to those who had distantly observed, than to those who had correctly examined, the system of his former political life. An abhorrence for abstract politics, a predilection for aristocracy, and a dread of innovation, have ever been among the most sacred articles of his public creed: and it was not likely that at his age he should abandon, to the invasion of audacious novelties, opinions which he had received so early and maintained so long,—which had been fortified by the applause of the great and the assent of the wise,—which he had dictated to so many illustrious pupils, and supported against so many distinguished opponents. Men who early attain eminence repose in their first creed, to the neglect of the progress of the human mind subsequent to its adoption; and when, as in the present case, it has burst forth into action, they regard it as a transient madness, worthy only of pity or derision. They mistake it for a mountain torrent that will pass away with the storm that gave it birth: they know not that it is the stream of human opinion *in omne volubilis ævum*, which the accession of every day will swell, and which is destined to sweep into the same oblivion the resistance of learned sophistry, and of powerful oppression.

But there still remained ample matter of astonishment in the Philippic of Mr. Burke.* He might deplore the sanguinary excesses, — he might deride the visionary policy, that seemed to him to tarnish the lustre of the Revolution; but it was hard to suppose that he would exhaust against it every

* The speech on the Army Estimates, 9th Feb. 1790.—ED.

epithet of contumely and opprobium that language can furnish to indignation; that the rage of his declamation would not for one moment be suspended, and that his heart would not betray one faint glow of triumph, at the splendid and glorious delivery of so great a people. All was invective: the authors and admirers of the Revolution, — every man who did not execrate it, even his own most enlightened and accomplished friends, — were devoted to odium and ignominy. The speech did not stoop to argument; the whole was dogmatical and authoritative: the cause seemed decided without discussion, — the anathema fulminated before trial.

But the ground of the opinions of this famous speech, which, if we may believe a foreign journalist, will form an epoch in the history of the eccentricities of the human mind, was impatiently expected in a work soon after announced. The name of the author, the importance of the subject, and the singularity of his opinions, all contributed to inflame the public curiosity, which, though it languished in a subsequent delay, has been revived by the appearance, and will be rewarded by the perusal of the work.*

It is certainly in every respect a performance, of which to form a correct estimate would prove one of the most arduous efforts of critical skill —

> "We scarcely can praise it, or blame it too much."†

Argument, every where dexterous and specious, sometimes grave and profound, clothed in the most rich and various imagery, and aided by the most pathetic and picturesque description, speaks the opulence and the powers of that mind, of which age has neither dimmed the discernment, nor enfeebled the fancy, — neither repressed the ardour, nor narrowed the

* The Reflections on the Revolution in France, published in 1790. — Ed.

† Retaliation. — Ed.

range. Virulent encomiums on urbanity, and inflammatory harangues against violence, homilies of moral and religious mysticism, better adapted to the amusement than to the conviction of an incredulous age, though they may rouse the languor of attention, can never be dignified by the approbation of the understanding.

Of the senate and people of France, Mr. Burke's language is such as might have been expected towards a country which his fancy has peopled only with plots, assassinations, and massacres, and all the brood of dire chimeras which are the offspring of a prolific imagination, goaded by an ardent and deluded sensibility. The glimpses of benevolence, which irradiate this gloom of invective, arise only from generous illusion, — from misguided and misplaced compassion. His eloquence is not at leisure to deplore the fate of beggared artisans, and famished peasants — the victims of suspended industry, and languishing commerce. The sensibility which seems scared by the homely miseries of the vulgar, is attracted only by the splendid sorrows of royalty, and agonises at the slenderest pang that assails the heart of sottishness or prostitution, if they are placed by fortune on a throne.* To the English friends of

* "The vulgar clamour which has been raised with such malignant art against the friends of freedom, as the apostles of turbulence and sedition, has not even spared the obscurity of my name. To strangers I can only vindicate myself by defying the authors of such clamours to discover one passage in this volume not in the highest degree favourable to peace and stable government: those to whom I am known would, I believe, be slow to impute any sentiments of violence to a temper which the partiality of my friends must confess to be indolent, and the hostility of enemies will not deny to be mild. I have been accused, by valuable friends, of treating with ungenerous levity the misfortunes of the Royal Family of France. They will not however suppose me capable of deliberately violating the sacredness of misery in a palace or a cottage; and I sincerely lament that I should have been betrayed into expressions which admitted that construction."— (*Advertisement to the third edition.*) — ED.

French freedom, his language is contemptuous, illiberal, and scurrilous. In one of the ebbings of his fervour, he is disposed not to dispute "their good intentions:" but he abounds in intemperate sallies and ungenerous insinuations, which wisdom ought to have checked, as ebullitions of passion, — which genius ought to have disdained, as weapons of controversy.

The arrangement of his work is as singular as the matter. Availing himself of all the privileges of epistolary effusion, in their utmost latitude and laxity, he interrupts, dismisses, and resumes argument at pleasure. His subject is as extensive as political science: his allusions and excursions reach almost every region of human knowledge. It must be confessed that in this miscellaneous and desultory warfare, the superiority of a man of genius over common men is infinite. He can cover the most ignominious retreat by a brilliant allusion: he can parade his arguments with masterly generalship, where they are strong; he can escape from an untenable position into a splendid declamation; he can sap the most impregnable conviction by pathos, and put to flight a host of syllogisms with a sneer; absolved from the laws of vulgar method, he can advance a group of magnificent horrors to make a breach in our hearts, through which the most undisciplined rabble of arguments may enter in triumph.

Analysis and method, like the discipline and armour of modern nations, correct in some measure the inequalities of controversial dexterity, and level on the intellectual field the giant and the dwarf. Let us then analyse the production of Mr. Burke, and, dismissing what is extraneous and ornamental, we shall discover certain leading questions, of which the decision is indispensable to the point at issue. The natural order of these topics will dictate the method of reply. Mr. Burke, availing himself of the indefinite and equivocal term "Revolution," has altogether reprobated that transaction. The first ques-

tion, therefore, that arises, regards the general expediency and necessity of a Revolution in France. This is followed by the discussion of the composition and conduct of the National Assembly, of the popular excesses which attended the Revolution, and of the new Constitution that is to result from it. The conduct of its English admirers forms the last topic, though it is with rhetorical inversion first treated by Mr. Burke; as if the propriety of approbation should be determined before the discussion of the merit or demerit of what was approved. In pursuance of this analysis, the following sections will comprise the substance of our refutation.

SECT. I. *The General Expediency and Necessity of a Revolution in France.*

SECT. II. *The Composition and Character of the National Assembly considered.*

SECT. III. *The Popular Excesses which attended, or followed, the Revolution.*

SECT. IV. *The New Constitution of France.*

SECT. V. *The Conduct of its English Admirers justified.*

With this reply to Mr. Burke will be mingled some strictures on the late publication of M. de Calonne.* That minister, who has for some time exhibited to the eyes of indignant Europe the spectacle of an exiled robber living in the most splendid impunity, has, with an effrontery that beggars invective, assumed in his work the tone of afflicted patriotism, and delivers his polluted Philippics as the oracles of persecuted virtue. His work is more methodical than that of his coadjutor.† Of his financial calculations it

* De l'Etat de la France. London, 1790. — ED.

† It cannot be denied that the production of M. de Calonne is "eloquent, able," and certainly very "instructive" in what regards his own character and designs. But it contains one instance of historical ignorance so egregious, that I cannot resist quoting it.

may be remarked, that in a work professedly popular they afford the strongest presumption of fraud. Their extent and intricacy seem contrived to extort assent from public indolence; for men will rather believe than examine them. His inferences are so outrageously incredible, that most men of sense will think it more safe to trust their own plain conclusions than to enter such a labyrinth of financial sophistry. The only part of his production that here demands reply, is that which relates to general political questions. Remarks on what he has offered concerning them will naturally find a place under the corresponding sections of the reply to Mr. Burke. Its most important view is neither literary nor argumentative: it appeals to judgments more decisive than those of criticism, and aims at wielding weapons more formidable than those of logic. It is the manifesto of a Counter-Revolution, and its obvious object is to inflame every passion and interest, real or supposed, that has received any shock in the establishment of freedom. He probes the bleeding wounds of the princes, the nobility, the priesthood, and the great judicial aristocracy: he adjures one body by its dignity degraded, another by its inheritance plundered, and a third by its authority destroyed, to repair to the holy banner of his philanthropic crusade. Confident in the protection of all the monarchs of Europe, whom he alarms for the security of their thrones, and, having insured the moderation of a fanatical rabble, by giving out among them the savage *war-whoop* of atheism, he already fancies himself in full march to Paris, not to re-instate the deposed despotism (for he disclaims the purpose, and who would not trust such

In his long discussion of the pretensions of the Assembly to the title of a "National Convention," he deduces the origin of that word from Scotland, where he informs us (p. 328.), "On lui donna le nom de Convention Ecossoise; le résultat de ses délibérations fut appellé '*Covenant*,' *et* ceux qui l'avoient souscrit ou qui y adheroient '*Covenanters!*'"

virtuous disavowals?), but at the head of this army of priests, mercenaries, and fanatics, to dictate, as the tutelary genius of France, the establishment of a just and temperate freedom, obtained without commotion and without carnage, and equally hostile to the interested ambition of demagogues and the lawless authority of kings. Crusades were an effervescence of chivalry, and the modern St. Francis has a knight for the conduct of these crusaders, who will convince Mr. Burke that the age of chivalry is not past, nor the glory of Europe gone for ever. The Compte d'Artois*, that scion worthy of Henry the Great, the rival of the Bayards and Sidneys, the new model of French knighthood, is to issue from Turin with ten thousand cavaliers, to deliver the peerless and immaculate Antoinetta of Austria from the durance vile in which she has so long been immured in the Tuilleries, from the swords of the discourteous knights of Paris, and the spells of the sable wizards of democracy.

SECTION I.

THE GENERAL EXPEDIENCY AND NECESSITY OF A REVOLUTION IN FRANCE.

It is asserted in many passages of Mr. Burke's work, though nowhere with that precision which the importance of the assertion demanded, that the French Revolution was not only in its parts reprehensible, but in the whole was absurd, inexpedient, and unjust; yet he has nowhere exactly informed us what he understands by the term. The "French Revolution," in its most popular sense, perhaps, would be understood

* "Ce digne rejeton du grand Henri." Calonne. "Un nouveau modèle de la Chevalerie Françoise." — Ibid. pp. 413—414.

in England to consist of those splendid events that formed the prominent portion of its exterior, — the Parisian revolt, the capture of the Bastille, and the submission of the King. But these memorable events, though they strengthened and accelerated, could not constitute a political revolution, which must include a change of government. But the term, even when limited to that meaning, is equivocal and wide. It is capable of three senses. The King's recognition of the rights of the States-General to a share in the legislation, was a change in the actual government of France, where the whole legislative and executive power had, without the shadow of an interruption, for nearly two centuries been enjoyed by the crown; in that sense the meeting of the States-General was the Revolution, and the 5th of May was its æra. The union of the three Orders in one assembly was a most important change in the forms and spirit of the legislature; this too may be called the Revolution, and the 23d of June will be its æra. This body, thus united, are forming a new Constitution *; this may be also called a Revolution, because it is of all the political changes the most important, and its epoch will be determined by the conclusion of the labours of the National Assembly. Thus equivocal is the import of Mr. Burke's expressions. To extricate them from this ambiguity, a rapid survey of these events will be necessary. It will prove, too, the fairest and most forcible confutation of his arguments. It will best demonstrate the necessity and justice of all the successive changes in the state of France, which formed what is called the "Revolution." It will discriminate legislative acts from popular excesses, and distinguish transient confusion from permanent establishment. It will evince the futility and fallacy of attributing to the conspiracy of individuals, or bodies, a Revolution which, whether it be beneficial or injurious, was pro-

* The Vindiciæ Gallicæ was published in April, 1791. — Ed.

duced only by general causes, and in which the most conspicuous individual produced little real effect.

The Constitution of France resembled in the earlier stages of its progress the other Gothic governments of Europe. The history of its decline and the causes of its extinction are abundantly known. Its infancy and youth were like those of the English government. The *Champ de Mars*, and the *Wittenagemot*, — the tumultuous assemblies of rude conquerors, — were in both countries melted down into representative bodies. But the downfal of the feudal aristocracy happening in France before commerce had elevated any other class of citizens into importance, its power devolved on the crown. From the conclusion of the fifteenth century the powers of the States-General had almost dwindled into formalities. Their momentary reappearance under Henry III. and Louis XIII. served only to illustrate their insignificance: their total disuse speedily succeeded.

The intrusion of any popular voice was not likely to be tolerated in the reign of Louis XIV. — a reign which has been so often celebrated as the zenith of warlike and literary splendour, but which has always appeared to me to be the consummation of whatever is afflicting and degrading in the history of the human race. Talent seemed, in that reign, robbed of the conscious elevation, — of the erect and manly port, which is its noblest associate and its surest indication. The mild purity of Fenelon, — the lofty spirit of Bossuet, — the masculine mind of Boileau, — the sublime fervour of Corneille, — were confounded by the contagion of ignominious and indiscriminate servility. It seemed as if the "representative majesty" of the genius and intellect of man were prostrated before the shrine of a sanguinary and dissolute tyrant, who practised the corruption of courts without their mildness, and incurred the guilt of wars without their glory. His highest praise is to have supported the stage trick of Royalty with effect: and it is surely difficult to con-

ceive any character more odious and despicable, than that of a puny libertine, who, under the frown of a strumpet, or a monk, issues the mandate that is to murder virtuous citizens, — to desolate happy and peaceful hamlets, — to wring agonising tears from widows and orphans. Heroism has a splendour that almost atones for its excesses: but what shall we think of him, who, from the luxurious and dastardly security in which he wallows at Versailles, issues with calm and cruel apathy his orders to butcher the Protestants of Languedoc, or to lay in ashes the villages of the Palatinate? On the recollection of such scenes, as a scholar, I blush for the prostitution of letters, — as a man, I blush for the patience of humanity.

But the despotism of this reign was pregnant with the great events which have signalised our age: it fostered that literature which was one day destined to destroy it. The profligate conquests of Louis have eventually proved the acquisitions of humanity; and his usurpations have served only to add a larger portion to the great body of freemen. The spirit of his policy was inherited by his successor: the rage of conquest, repressed for a while by the torpid despotism of Fleury, burst forth with renovated violence in the latter part of the reign of Louis XV. France, exhausted alike by the misfortunes of one war and the victories of another, groaned under a weight of impost and debt, which it was equally difficult to remedy or to endure. But the profligate expedients were exhausted by which successive ministers had attempted to avert the great crisis, in which the credit and power of the government must perish.

The wise and benevolent administration of M. Turgot *, though long enough for his own glory, was

* "Louis XVI. called to his councils the two most virtuous men in his dominions, M. Turgot and M. de Lamoignon Malesherbes. Few things could have been more unexpected than that such a promotion should have been made; and still fewer have

too short, and perhaps too early, for those salutary and grand reforms which his genius had conceived, and his virtue would have effected. The aspect of

more discredited the sagacity and humbled the wisdom of man than that so little good should ultimately have sprung from so glorious an occurrence. M. Turgot appears beyond most other men to have been guided in the exertion of his original genius and comprehensive intellect by impartial and indefatigable benevolence. He preferred nothing to the discovery of truth but the interest of mankind; and he was ignorant of nothing of which he did not forego the attainment, that he might gain time for the practice of his duty. Co-operating with the illustrious men who laid the foundation of the science of political economy, his writings were distinguished from theirs by the simplicity, the geometrical order, and precision of a mind without passion, intent only on the progress of reason towards truth. The character of M. Turgot considered as a private philosopher, or as an inferior magistrate, seems to have approached more near the ideal model of a perfect sage than that of any other man of the modern world. But he was destined rather to instruct than reform mankind. Like Bacon (whom he so much resembled in the vast range of his intellect) he came into a court, and, like Bacon, — though from far nobler causes, — he fell. The noble error of supposing men to be more disinterested and enlightened than they are, betrayed him. Though he had deeply studied human nature, he disdained that discretion and dexterity without which wisdom must return to her cell, and leave the dominion of the world to cunning. The instruments of his benevolence depended on others: but the sources of his own happiness were independent, and he left behind him in the minds of his friends that enthusiastic attachment and profound reverence with which, when superior attainments were more rare, the sages of antiquity inspired their disciples. The virtue of M. de Lamoignon was of a less perfect but of a softer and more natural kind. Descended from one of the most illustrious families of the French magistracy, he was early called to high offices. He employed his influence chiefly in lightening the fetters which impeded the free exercise of reason; and he exerted his courage and his eloquence in defending the people against oppressive taxation. While he was a minister, he had prepared the means of abolishing arbitrary imprisonment. No part of science or art was foreign to his elegant leisure. His virtue was without effort or system, and his benevolence was prone to diffuse itself in a sort of pleasantry and even drollery. In this respect he resembled Sir Thomas More; and it is remarkable that this playfulness — the natural com-

purity and talent spread a natural alarm among the minions of a court; and they easily succeeded in the expulsion of such rare and obnoxious intruders. The magnificent ambition of M. de Vergennes, the brilliant, profuse, and rapacious career of M. de Calonne, the feeble and irresolute violence of M. de Brienne, — all contributed their share to swell this financial embarrassment. The *deficit*, or inferiority of the revenue to the expenditure, at length rose to the enormous sum of 115 millions of livres, or about 4,750,000*l.* annually.* This was a disproportion between income and expense with which no government, and no individual, could long continue to exist.

In this exigency there was no expedient left, but to guarantee the ruined credit of bankrupt despotism by the sanction of the national voice. The States-General were a dangerous mode of collecting it: recourse was, therefore, had to the Assembly of the Notables; a mode well known in the history of France, in which the King summoned a number of individuals, selected, at *his* discretion, from the mass, to advise him in great emergencies. They were little better than a popular Privy Council. They were neither recognised nor protected by law: their precarious and subordinate existence hung on the nod of despotism.

The Notables were accordingly called together by M. de Calonne, who has now the inconsistent arrogance to boast of the schemes which he laid before them, as the model of the Assembly whom he traduces. He proposed, it is true, the equalisation of imposts and the

panion of a simple and innocent mind — attended both these illustrious men to the scaffold on which they were judicially murdered." — MS. Ed.

* For this we have the authority of M. de Calonne himself, p. 56. This was the account presented to the Notables in April, 1787. He, indeed, makes some deductions on account of part of this *deficit* being expirable: but this is of no consequence to our purpose, which is to view the influence of the *present* urgency, — the political, not the financial, state of the question.

abolition of the pecuniary exemptions of the Nobility and Clergy; and the difference between his system and that of the Assembly is only in what makes the sole distinction in human actions—its end. *He* would have destroyed the privileged Orders, as obstacles to despotism: *they* have destroyed them, as derogations from freedom. The object of *his* plans was to facilitate fiscal oppression: the motive of *theirs* is to fortify general liberty. *They* have levelled all Frenchmen as men: *he* would have levelled them all as slaves. The Assembly of the Notables, however, soon gave a memorable proof, how dangerous are all public meetings of men, even without legal powers of control, to the permanence of despotism. They had been assembled by M. de Calonne to admire the plausibility and splendour of his speculations, and to veil the extent and atrocity of his rapine: but the fallacy of the one and the profligacy of the other were detected with equal ease. Illustrious orators, who have since found a nobler sphere for their talents, in a more free and powerful Assembly, exposed the plunderer. Detested by the Nobles and Clergy, of whose privileges he had suggested the abolition; undermined in the favour of the Queen, by his attack on one of her favourites, (Breteuil); exposed to the fury of the people, and dreading the terrors of judicial prosecution, he speedily sought refuge in England, without the recollection of one virtue. or the applause of one party, to console his retreat. Thus did the Notables destroy their creator. Little appeared to be done to a superficial observer: but to a discerning eye, all was done; for the dethroned authority of Public Opinion was restored.

The succeeding Ministers, uninstructed by the example of their predecessors, by the destruction of public credit, and by the fermentation of the popular mind, hazarded measures of a still more preposterous and perilous description. The usurpation of some share in the sovereignty by the Parliament of Paris had become popular and venerable, because its ten-

dency was useful, and its exercise virtuous. That body had, as it is well known, claimed a right, which, in fact, amounted to a negative on all the acts of the King:—they contended, that the registration of his edicts by them was necessary to give them force. They would, in that case, have possessed the same share of legislation as the King of England. It is unnecessary to descant on the historical fallacy, and political inexpediency, of doctrines, which would vest in a narrow aristocracy of lawyers, who had bought their places, such extensive powers. It cannot be denied that their resistance had often proved salutary, and was some feeble check on the capricious wantonness of despotic exaction: but the temerity of the Minister now assigned them a more important part. They refused to register two edicts for the creation of imposts, averring that the power of imposing taxes was vested only in the national representatives, and claiming the immediate convocation of the States-General of the kingdom: the Minister banished them to Troyes. But he soon found how much the French were changed from that abject and frivolous people, which had so often endured the exile of its magistrates: Paris exhibited the tumult and clamour of a London Mob. The Cabinet, which could neither advance nor recede with safety, had recourse to the expedient of a compulsory registration. The Duke of Orleans, and the magistrates who protested against this execrable mockery, were exiled or imprisoned. But all these hacknied expedients of despotism were in vain. These struggles, which merit notice only as they illustrate the progressive energy of Public Opinion, were followed by events still less equivocal. *Lettres de Cachet* were issued against MM. d'Espréménil and Goeslard. They took refuge in the sanctuary of justice, and the Parliament pronounced them under the safeguard of the law and the King. A deputation was sent to Versailles, to intreat his Majesty to listen to sage counsels; and Paris expected,

with impatient solicitude, the result. When towards midnight, a body of two thousand troops marched to the palace where the Parliament were seated, and their Commander, entering into the Court of Peers, demanded his victims, a loud and unanimous acclamation replied, — "We are all d'Espréménil and Goeslard!" These magistrates surrendered themselves; and the satellite of despotism led them off in triumph, amid the execrations of an aroused and indignant people. These spectacles were not without their effect: the spirit of resistance spread daily over France. The intermediate commission of the States of Bretagne, the States of Dauphiné, and many other public bodies, began to assume a new and manacing tone. The Cabinet was dissolved by its own feebleness, and M. Neckar was recalled.

That Minister, probably upright, and not illiberal, but narrow, pusillanimous, and entangled by the habits of detail * in which he had been reared, possessed not that erect and intrepid spirit, — those enlarged and original views, which adapt themselves to new combinations of circumstances, and sway in the great convulsions of human affairs. Accustomed to the tranquil accuracy of commerce, or the elegant amusements of literature, he was called on to

"Ride in the whirlwind, and direct the storm." †

He seemed superior to his privacy while he was limited to it, and would have been adjudged by history equal to his elevation had he never been elevated. ‡ The

* The late celebrated Dr. Adam Smith always held this opinion of Neckar, whom he had known intimately when a banker in Paris. He predicted the fall of his fame when his talents should be brought to the test, and always emphatically said, "He is but a man of detail." At a time when the commercial abilities of Mr. Eden, the present Lord Auckland, were the theme of profuse eulogy, Dr. Smith characterised him in the same words.

† Addison, The Campaign. — Ed.

‡ Major privato visus, dum privatus fuit, et omnium consensu capax imperii, nisi imperasset. — Tacitus, Hist. lib. i. cap. 49.

reputation of few men, it is true, has been exposed to so severe a test; and a generous observer will be disposed to scrutinise less rigidly the claims of a statesman, who has retired with the applause of no party, — who is detested by the aristocracy as the instrument of their ruin, and despised by the democratic leaders for pusillanimous and fluctuating policy. But had the character of M. Neckar possessed more originality or decision, it could have had little influence on the fate of France. The minds of men had received an impulse; and individual aid and individual opposition were equally vain. His views, no doubt, extended only to palliation; but he was involved in a stream of opinions and events, of which no force could resist the current, and no wisdom adequately predict the termination. He is represented by M. de Calonne as the Lord Sunderland of Louis XVI. seducing the King to destroy his own power: but he had neither genius nor boldness for such designs.

To return to our rapid survey: — The autumn of 1788 was peculiarly distinguished by the enlightened and disinterested patriotism of the States of Dauphiné. They furnished, in many respects, a model for the future senate of France. Like them they deliberated amidst the terrors of ministerial vengeance and military execution. They annihilated the absurd and destructive distinction of Orders; the three estates were melted into a Provincial Assembly; they declared, that the right of imposing taxes resided ultimately in the States-General of France; and they voted a deputation to the King to solicit the convocation of that assembly. Dauphiné was emulously imitated by all the provinces that still retained the shadow of Provincial States. The States of Languedoc, of Velay, and Vivarois, the Tiers Etat of Provence, and all the Municipalities of Bretagne, adopted similar resolutions. In Provence and Bretagne, where the Nobles and Clergy, trembling for their privileges, and the Parliaments for their juris-

diction, attempted a feeble resistance, the fermentation was peculiarly strong. Some estimate of the fervour of public sentiment may be formed from the reception of the Count de Mirabeau in his native province, where the burgesses of Aix assigned him a body-guard, where the citizens of Marseilles crowned him in the theatre, and where, under all the terrors of despotism, he received as numerous and tumultuous proofs of attachment as ever were bestowed on a favourite by the enthusiasm of the most free people. M. Caraman, the Governor of Provence, was even reduced to implore his interposition with the populace, to appease and prevent their excesses. The contest in Bretagne was more violent and sanguinary. She had preserved her independence more than any of those provinces which had been united to the crown of France. The Nobles and Clergy possessed almost the whole power of the States, and their obstinacy was so great, that their deputies did not take their seats in the National Assembly till an advanced period of its proceedings.

The return of M. Neckar, and the recall of the exiled magistrates, restored a momentary calm. The personal reputation of the minister for probity, reanimated the credit of France. But the finances were too irremediably embarrassed for palliatives; and the fascinating idea of the States-General, presented to the public imagination by the unwary zeal of the Parliament, awakened recollections of ancient freedom, and prospects of future splendour, which the virtue or popularity of no minister could banish. The convocation of that body was resolved on; but many difficulties respecting the mode of electing and constituting it remained, which a second Assembly of Notables was summoned to decide.

The Third Estate demanded representatives equal to those of the other two Orders jointly. They required that the number should be regulated by the population of the districts, and that the three Orders

should vote in one Assembly. All the committees into which the Notables were divided, except that of which MONSIEUR was President, decided against the Third Estate in every one of these particulars. They were strenuously supported by the Parliament of Paris, who, too late sensible of the suicide into which they had been betrayed, laboured to render the Assembly impotent, after they were unable to prevent its meeting. But their efforts were in vain: M. Neckar, whether actuated by respect for justice, or desire of popularity, or yielding to the irresistible torrent of public sentiment, advised the King to adopt the propositions of the Third Estate in the two first particulars, and to leave the last to be decided by the States-General themselves.

Letters-Patent were accordingly issued on the 24th of January, 1789, for assembling the States-General, to which were annexed regulations for the detail of their elections. In the constituent assemblies of the several provinces, bailliages, and constabularies of the kingdom, the progress of the public mind became still more evident. The Clergy and Nobility ought not to be denied the praise of having emulously sacrificed their pecuniary privileges. The instructions to the representatives breathed every where a spirit of freedom as ardent, though not so liberal and enlightened, as that which has since presided in the deliberations of the National Assembly. Paris was eminently conspicuous. The union of talent, the rapid communication of thought, and the frequency of those numerous assemblies, where men learn their force, and compare their wrongs, ever make a great capital the heart that circulates emotion and opinion to the extremities of an empire. No sooner had the convocation of the States-General been announced, than the batteries of the press were opened. Pamphlet succeeded pamphlet, surpassing each other in boldness and elevation; and the advance of Paris to light and freedom was greater in three months than

it had been in almost as many centuries. Doctrines were universally received in May, which in January would have been deemed treasonable, and which in March had been derided as the visions of a few deluded fanatics.*

It was amid this rapid diffusion of light, and increasing fervour of public sentiment, that the States-General assembled at Versailles on the 5th of May, 1789,—a day which will probably be accounted by posterity one of the most memorable in the annals of the human race. Any detail of the parade and ceremonial of their assembly would be totally foreign to our purpose, which is not to narrate events, but to seize their spirit, and to mark their influence on the political progress from which the Revolution was to arise. The preliminary operation necessary to constitute the Assembly gave rise to the first great question,—the mode of authenticating the commissions of the deputies. It was contended by the Clergy and Nobles, that, according to ancient usage, each Order should separately scrutinise and authenticate the commissions of its own deputies. It was argued by the Commons, that, on general principles, all Orders, having an equal interest in the purity of the national representative, had an equal right to take cognisance of the authenticity of the commissions of all the members who composed the body, and therefore to scrutinise them in common. To the authority of precedent it was answered, that it would establish too much; for in the ancient States, their examination of powers was subordinate to the revision of Royal

* The principles of freedom had long been understood, perhaps better than in any country of the world, by the philosophers of France. It was as natural that they should have been more diligently cultivated in that kingdom than in England, as that the science of medicine should be less understood and valued among simple and vigorous, than among luxurious and enfeebled nations. But the progress which we have noticed was among the less instructed part of society.

Commissaries, — a subjection too degrading and injurious for the free and vigilant spirit of an enlightened age.

This controversy involved another of more magnitude and importance. If the Orders united in this scrutiny, they were likely to continue in one Assembly; the separate voices of the two first Orders would be annihilated, and the importance of the Nobility and Clergy reduced to that of their individual suffrages. This great revolution was obviously meditated by the leaders of the Commons. They were seconded in the chamber of the Noblesse by a minority eminently distinguished for rank, character, and talent. The obscure and useful portion of the Clergy were, from their situation, accessible to popular sentiment, and naturally coalesced with the Commons. Many who favoured the division of the Legislature in the ordinary arrangements of government, were convinced that the grand and radical reforms, which the situation of France demanded, could only be effected by its union as one Assembly.* So many prejudices were to be vanquished, — so many difficulties to be surmounted, — such obstinate habits to be extirpated, and so formidable a power to be resisted, that there was an obvious necessity to concentrate the force of

* Il n'est pas douteux que pour aujourd'hui, que pour cette premiere tenue une Chambre Unique n'ait été préferable et peut-être *nécessaire*; il y avoit tant de difficultés à surmonter, tant de prejugés à vaincre, tant de sacrifices à faire, de si vieilles habitudes à déraciner, une puissance si forte à contenir, en un mot, tant à détruire et *presque tout à créer*." — "Ce nouvel ordre de choses que vous avez fait eclorre, tout cela vous en êtes bien surs n'a jamais pu naître que de la réunion de toutes les personnes, de tous les sentiments, et de tous les cœurs. — Discours de M. Lally-Tollendal à l'Assemblée Nationale, 31 Août, 1789, dans ses Pièces Justificatifs, pp. 105, 106. This passage is in more than one respect remarkable. It fully evinces the conviction of the author, that changes were necessary great enough to deserve the name of a Revolution, and, considering the respect of Mr. Burke for his authority, ought to have weight with him.

the reforming body. In a great revolution, every expedient ought to facilitate change: in an established government, every thing ought to render it difficult. Hence the division of a legislature, which in an established government, may give a beneficial stability to the laws, must, in a moment of revolution, be proportionably injurious, by fortifying abuse and unnerving reform. In a revolution, the enemies of freedom are external, and all powers are therefore to be united: under an establishment her enemies are internal, and power is therefore to be divided. But besides this general consideration, the state of France furnished others of more local and temporary cogency. The States-General, acting by separate Orders, were a body from which no substantial reform could be hoped. The two first Orders were interested in the perpetuity of every abuse that was to be reformed: their possession of two equal and independent voices must have rendered the exertions of the Commons impotent and nugatory. And a collusion between the Assembly and the Crown would probably have limited its illusive reforms to some sorry palliatives — the price of financial disembarrassment. The state of a nation lulled into complacent servitude by such petty concessions, is far more hopeless than that of those who groan under the most galling despotism; and the condition of France would have been more irremediable than ever.

Such reasonings produced an universal conviction, that the question, whether the States-General were to vote individually, or in Orders, was a question, whether they were or were not to produce any important benefit. Guided by these views, and animated by public support, the Commons adhered inflexibly to their principle of incorporation. They adopted a provisory organisation, but studiously declined whatever might seem to suppose legal existence, or to arrogate constitutional powers. The Nobles, less politic or timid, declared themselves a legally con-

stituted Order, and proceeded to discuss the great objects of their convocation. The Clergy affected to preserve a mediatorial character, and to conciliate the discordant claims of the two hostile Orders. The Commons, faithful to their system, remained in a wise and masterly inactivity, which tacitly reproached the arrogant assumption of the Nobles, while it left no pretext to calumniate their own conduct, gave time for the increase of the popular fervour, and distressed the Court by the delay of financial aid. Several conciliatory plans were proposed by the Minister, and rejected by the haughtiness of the Nobility and the policy of the Commons.

Thus passed the period between the 5th of May and the 12th of June, when the popular leaders, animated by public support, and conscious of the maturity of their schemes, assumed a more resolute tone. The Third Estate then commenced the scrutiny of commissions, summoned the Nobles and Clergy to repair to the Hall of the States-General, and resolved that the absence of the deputies of some districts and classes of citizens could not preclude them, who formed the representatives of ninety-six hundredths of the nation, from constituting themselves a National Assembly.

These decisive measures betrayed the designs of the Court, and fully illustrate that bounty and liberality for which Louis XVI. has been so idly celebrated. That feeble Prince, whose public character varied with every fluctuation in his Cabinet,—the instrument alike of the ambition of Vergennes, the prodigality of Calonne, and the ostentatious popularity of Neckar,—had hitherto yielded to the embarrassment of the finances, and the clamour of the people. The cabal that retained its ascendant over his mind, permitted concessions which they hoped to make vain, and flattered themselves with frustrating, by the contest of struggling Orders, all idea of substantial reform. But no sooner did the Assembly betray any symptom

of activity and vigour, than their alarms became conspicuous in the Royal conduct. The Comte d'Artois, and the other Princes of the Blood, published the boldest manifestoes against the Assembly; the credit of M. Neckar at Court declined every day: the Royalists in the chamber of the Noblesse spoke of nothing less than an impeachment of the Commons for high-treason, and an immediate dissolution of the States; and a vast military force and a tremendous park of artillery were collected from all parts of the kingdom towards Versailles and Paris. Under these menacing and inauspicious circumstances, the meeting of the States-General was prohibited by the King's order till a Royal Session, which was destined for the 22d but not held till the 23d of June, had taken place. On repairing to their Hall on the 20th, the Commons found it invested with soldiers, and themselves excluded by the point of the bayonet. They were summoned by their President to a *Tennis-Court*, where they were reduced to hold their assembly, and which they rendered famous as the scene of their unanimous and memorable oath,—never to separate till they had achieved the regeneration of France.

The Royal Session thus announced, corresponded with the new tone of the Court. Its exterior was marked by the gloomy and ferocious haughtiness of despotism. The Royal Puppet was now evidently moved by different persons from those who had prompted its Speech at the opening of the States. He probably now spoke both with the same spirit and the same heart, and felt as little firmness under the cloak of arrogance, as he had been conscious of sensibility amidst his professions of affection; he was probably as feeble in the one as he had been cold in the other: but his language is some criterion of the system of his prompters. This speech was distinguished by insulting condescension and ostentatious menace. He spoke not as the Chief of a free nation to its sovereign Legislature, but as a Sultan to his

Divan. He annulled and prescribed deliberations at pleasure. He affected to represent his will as the rule of their conduct, and his bounty as the source of their freedom. Nor was the matter of his harangue less injurious than its manner was offensive. Instead of containing any concession important to public liberty, it indicated a relapse into a more lofty despotism than had before marked his pretensions. Tithes, feudal and seignorial rights, he consecrated as the most inviolable property; and of *Lettres de Cachet* themselves, by recommending the regulation, he obviously condemned the abolition. The distinction of Orders he considered as essential to the Constitution of the kingdom, and their present union as only legitimate by his permission. He concluded with commanding them to separate, and to assemble on the next day in the Halls of their respective Orders.

The Commons, however, inflexibly adhering to their principles, and conceiving themselves constituted as a National Assembly, treated these threats and injunctions with equal neglect. They remained assembled in the Hall, which the other Orders had quitted in obedience to the Royal command; and when the Marquis de Brézé, the King's Master of the Ceremonies, reminded them of his Majesty's orders, he was answered by M. Bailly, with Spartan energy,—"The Nation assembled has no orders to receive." They proceeded to pass resolutions declaratory of adherence to their former decrees, and of the personal inviolability of the members. The Royal Session, which the Aristocratic party had expected with such triumph and confidence, proved the severest blow to their cause. Forty-nine members of the Nobility, at the head of whom was M. de Clermont-Tonnerre, repaired on the 26th of June to the Assembly.* The

* It deserves remark, that in this number were noblemen who have ever been considered as of the *moderate* party. Of these may be mentioned MM. Lally, Virieu, and Clermont-Tonnerre, none of whom certainly can be accused of democratic enthusiasm.

popular enthusiasm was inflamed to such a degree, that alarms were either felt or affected, for the safety of the King, if the union of Orders was delayed. The union was accordingly resolved on; and the Duke of Luxembourg, President of the Nobility, was authorised by his Majesty to announce to his Order the request and even command of the King, to unite themselves with the others. He remonstrated with the King on the fatal consequences of this step. "The Nobility," he remarked, "were not fighting their own battles, but those of the Crown. The support of the monarchy was inseparably connected with the division of the States-General: divided, that body was subject to the Crown; united, its authority was sovereign, and its force irresistible." * The King was not, however, shaken by these considerations, and on the following day, notified his pleasure in an official letter to the Presidents of the Nobility and the Clergy. A gloomy and reluctant obedience was yielded to this mandate, and the union of the National Representatives at length promised some hope to France.

But the general system of the Government formed a suspicious and tremendous contrast with this applauded concession. New hordes of foreign mercenaries were summoned to the blockade of Paris and Versailles, from the remotest provinces; an immense train of artillery was disposed in all the avenues of these cities; and 70,000 men already invested the Capital, when the last blow was hazarded against the public hopes, by the ignominious banishment of M. Neckar. Events followed the most unexampled and memorable in the annals of mankind, which history will record and immortalise, but, on which, the object of the political reasoner is only to specu-

* These remarks of M. de Luxembourg are equivalent to a thousand defences of the Revolutionists against Mr. Burke. They unanswerably prove that the division of Orders was supported *only* as necessary to palsy the efforts of the Legislature against the Despotism.

late. France was on the brink of civil war. The Provinces were ready to march immense bodies to the rescue of their representatives. The courtiers and their minions, princes and princesses, male and female favourites, crowded to the camps with which they had invested Versailles, and stimulated the ferocious cruelty of their mercenaries, by caresses, by largesses, and by promises. Meantime the people of Paris revolted; the French soldiery felt that they were citizens; and the fabric of Despotism fell to the ground.

These soldiers, whom posterity will celebrate for patriotic heroism, are stigmatised by Mr. Burke as "base hireling deserters," who sold their King for an increase of pay.* This position he every where asserts or insinuates: but nothing seems more false. Had the defection been confined to Paris, there might have been some speciousness in the accusation. The exchequer of a faction might have been equal to the corruption of the guards: the activity of intrigue might have seduced the troops cantoned in the neighbourhood of the capital. But what policy, or fortune, could pervade by their agents, or donatives, an army of 150,000 men, dispersed over so great a monarchy as France. The spirit of resistance to uncivic commands broke forth at once in every part of the empire. The garrisons of the cities of Rennes, Bourdeaux, Lyons, and Grenoble, refused, almost at the same moment, to resist the virtuous insurrection of their fellow-citizens. No largesses could have seduced, — no intrigues could have reached so vast and divided a body. Nothing but sympathy with the national spirit could have produced their noble disobedience. The remark of Mr. Hume is here most

* Mr. Burke is sanctioned in this opinion by an authority not the most respectable, that of his late countryman Count Dalton, Commander of the Austrian troops in the Netherlands. In September, 1789, he addressed the Régiment de Ligne, at Brussels, in these terms: — "J'espère que vous n'imiterez jamais ces laches François qui ont abandonné leur Souverain!"

applicable, "that what depends on a few may be often attributed to chance (secret circumstances); but that the actions of great bodies must be ever ascribed to general causes." It was the apprehension of Montesquieu, that the spirit of increasing armies would terminate in converting Europe into an immense camp, in changing our artisans and cultivators into military savages, and reviving the age of Attila and Genghis. Events are our preceptors, and France has taught us that this evil contains in itself its own remedy and limit. A domestic army cannot be increased without increasing the number of its ties with the people, and of the channels by which popular sentiment may enter. Every man who is added to the army is a new link that unites it to the nation. If all citizens were compelled to become soldiers, all soldiers must of necessity adopt the feelings of citizens; and despots cannot increase their army without admitting into it a greater number of men interested in destroying them. A small army may have sentiments different from the great body of the people, and no interest in common with them, but a numerous soldiery cannot. This is the barrier which Nature has opposed to the increase of armies. They cannot be numerous enough to enslave the people, without becoming the people itself. The effects of this truth have been hitherto conspicuous only in the military defection of France, because the enlightened sense of general interest has been so much more diffused in that nation than in any other despotic monarchy of Europe: but they must be felt by all. An elaborate discipline may for a while in Germany debase and brutalise soldiers too much to receive any impressions from their fellow men: artificial and local institutions are, however, too feeble to resist the energy of natural causes. The constitution of man survives the transient fashions of despotism; and the history of the next century will probably evince on how frail and tottering a basis the military tyrannies of Europe stand.

The pretended seduction of the troops by the promise of increased pay, is in every view contradicted by facts. This increase of pay did not originate in the Assembly; it was not even any part of their policy: it was prescribed to them by the instructions of their constituents, before the meeting of the States.* It could not therefore be the project of any cabal of demagogues to seduce the army: it was the decisive and unanimous voice of the nation; and if there was any conspiracy, it must have been that of the people. What had demagogues to offer? The soldiery knew that the States must, in obedience to their instructions, increase their pay. This increase could, therefore, have been no temptation to them; for of it they felt themselves already secure, as the national voice had prescribed it. It was in fact a necessary part of the system which was to raise the army to a body of respectable citizens, from a gang of mendicant ruffians. An increase of pay must infallibly operate to limit the increase of armies in the North. This influence has been already felt in the Netherlands, which fortune seems to have restored to Leopold, that they might furnish a school of revolt to German soldiers. The Austrian troops have there murmured at their comparative indigence, and have supported their plea for increase of pay by the example of France. The same example must operate on the other armies of Europe: and the solicitations of armed petitioners must be heard. The indigent despots of Germany and the North will feel a limit to their military rage, in the scantiness of their exchequer. They will be compelled to reduce the number, and increase the pay of their armies: and a new barrier will be opposed to the progress of that depopulation and barbarism, which philosophers have dreaded from the rapid increase of military force. These remarks on the spirit which actuated the French army in their unexampled, misconceived, and

* Calonne, p. 390.

calumniated conduct, are peculiarly important, as they serve to illustrate a principle, which cannot too frequently be presented to view, — that in the French Revolution all is to be attributed to general causes influencing the whole body of the people, and almost nothing to the schemes and the ascendant of individuals.

But to return to our rapid sketch: — it was at the moment of the Parisian revolt, and of the defection of the army, that the whole power of France devolved on the National Assembly. It is at that moment, therefore, that the discussion commences, whether that body ought to have re-established and reformed the government which events had subverted, or to have proceeded to the establishment of a new constitution, on the general principles of reason and freedom. The arm of the ancient Government had been palsied, and its power reduced to a mere formality, by events over which the Assembly possessed no controul. It was theirs to decide, not whether the monarchy was to be subverted, for that had been already effected, but whether, from its ruins, fragments were to be collected for the re-construction of the political edifice. They had been assembled as an ordinary Legislature under existing laws: they were transformed by these events into a National Convention, and vested with powers to organise a government. It is in vain that their adversaries contest this assertion, by appealing to the deficiency of forms*: it is in vain

* This circumstance is thus shortly stated by Mr. Burke, (p. 242.):—"I can never consider this Assembly as anything else than a volun··ry association of men, who have availed themselves of circumsta: ·es to seize upon the power of the State. They do not hold the ·uthority they exercise under any constitutional law of the State · They have departed from the instructions of the people that ·nt them." The same argument is treated by M. de Calonne, i an expanded memorial of 44 pages (314—358.), against the pretensions of the Assembly to be a Convention, with much unavailing ingenuity and labour.

to demand the legal instrument that changed their constitution, and extended their powers. Accurate forms in the conveyance of power are prescribed by the wisdom of law, in the regular administration of states: but great revolutions are too immense for technical formality. All the sanction that can be hoped for in such events, is the voice of the people, however informally and irregularly expressed. This cannot be pretended to have been wanting in France. Every other species of authority was annihilated by popular acts, but that of the States-General. On them, therefore, devolved the duty of exercising their *unlimited* trust *, according to their best views of general interest. Their enemies have, even in their invectives, confessed the *subsequent adherence* of the people, for they have inveighed against it as the infatuation of a dire fanaticism. The authority of the Assembly was then first conferred on it by public confidence; and its acts have been since ratified by public approbation. Nothing can betray a disposition to indulge in puny and technical sophistry more strongly, than to observe with M. de Calonne, "that this ratification, to be valid, ought to have been made by France, not

* A distinction made by Mr. Burke between the *abstract* and *moral* competency of a Legislature (p. 27.), has been much extolled by his admirers. To me it seems only a novel and objectionable mode of distinguishing between *a right* and the *expediency* of using it. But the mode of illustrating the distinction is far more pernicious than a mere novelty of phrase. This moral competence is subject, says our author, to "faith, justice, and fixed fundamental policy:" thus illustrated, the distinction appears liable to a double objection. It is false that the *abstract* competence of a Legislature extends to the violation of faith and justice: it is false that its *moral* competence does not extend to the most fundamental policy. Thus to confound fundamental policy with faith and justice, for the sake of stigmatising innovators, is to stab the vitals of morality. There is only one maxim of policy truly fundamental — the good of the governed; and the stability of that maxim, rightly understood, demonstrates the mutability of all policy that is subordinate to it.

in her new organisation of municipalities, but in her ancient division of bailliages and provinces." The same *individuals* act in both forms; the approbation of the *men* legitimatises the government: it is of no importance, whether they are assembled in bailliages or in municipalities.

If this latitude of informality, this subjection of laws to their principle, and of government to its source, are not permitted in revolutions, how are we to justify the assumed authority of the English Convention of 1688? "They did not hold the authority they exercised under any constitutional law of the State." They were not even legally elected, as, it must be confessed, was the case with the French Assembly. An evident, though irregular, ratification by the people, alone legitimatised their acts. Yet they possessed, by the confession of Mr. Burke, an authority only limited by prudence and virtue. Had the people of England given instructions to the members of that Convention, its ultimate measures would probably have departed as much from those instructions as the French Assembly have deviated from those of their constituents; and the public acquiescence in the deviation would, in all likelihood, have been the same. It will be confessed by any man who has considered the public temper of England at the landing of William, that the majority of those instructions would not have proceeded to the deposition of James. The first aspect of these great changes perplexes and intimidates men too much for just views and bold resolutions: it is by the progress of events that their hopes are emboldened, and their views enlarged. This influence was felt in France. The people, in an advanced period of the Revolution, virtually recalled the instructions by which the feebleness of their political infancy had limited the power of their representatives; for they sanctioned acts by which those instructions were contradicted. The formality of instructions was indeed wanting in Eng-

land; but the change of public sentiment, from the opening of the Convention to its ultimate decision, was as remarkable as the contrast which has been so ostentatiously displayed by M. de Calonne, between the decrees of the National Assembly and the first instructions of their constituents.

We now resume the consideration of this exercise of authority by the Assembly, and proceed to enquire, whether they ought to have reformed, or destroyed their government? The general question of innovation is an exhausted common-place, to which the genius of Mr. Burke has been able to add nothing but splendour of eloquence and felicity of illustration. It has long been so notoriously of this nature, that it is placed by Lord Bacon among the sportive contests which are to exercise rhetorical skill. No man will support the extreme on either side: perpetual change and immutable establishment are equally indefensible. To descend therefore from these barren generalities to a nearer view of the question, let us state it more precisely:—Was the civil order in France corrigible, or was it necessary to destroy it? Not to mention the extirpation of the feudal system, and the abrogation of the civil and criminal code, we have first to consider the destruction of the three great corporations, of the Nobility, the Church, and the Parliaments. These three Aristocracies were the pillars which in fact formed the government of France. The question then of forming or destroying these bodies was fundamental.

There is one general principle applicable to them all adopted by the French legislators,—that the existence of Orders is repugnant to the principles of the social union. An Order is a legal rank, a body of men combined and endowed with privileges by law. There are two kinds of inequality: the one personal, that of talent and virtue, the source of whatever is excellent and admirable in society; the other, that of fortune, which must exist, because property alone can

stimulate to labour, and labour, if it were not necessary to the existence, would be indispensable to the happiness of man. But though it be necessary, yet in its excess it is the great malady of civil society. The accumulation of that power which is conferred by wealth in the hands of the few, is the perpetual source of oppression and neglect to the mass of mankind. The power of the wealthy is farther concentrated by their tendency to combination, from which, number, dispersion, indigence, and ignorance equally preclude the poor. The wealthy are formed into bodies by their professions, their different degrees of opulence (called "ranks"), their knowledge, and their small number. They necessarily in all countries administer government, for they alone have skill and leisure for its functions. Thus circumstanced, nothing can be more evident than their inevitable preponderance in the political scale. The preference of partial to general interests is, however, the greatest of all public evils. It should therefore have been the object of all laws to repress this malady; but it has been their perpetual tendency to aggravate it. Not content with the inevitable inequality of fortune, they have superadded to it honorary and political distinctions. Not content with the inevitable tendency of the wealthy to combine, they have embodied them in classes. They have fortified those conspiracies against the general interest, which they ought to have resisted, though they could not disarm. Laws, it is said, cannot equalise men;—No: but ought they for that reason to aggravate the inequality which they cannot cure? Laws cannot inspire unmixed patriotism: but ought they for that reason to foment that *corporation spirit* which is its most fatal enemy? "All professional combinations," said Mr. Burke, in one of his late speeches in Parliament, "are dangerous in a free state." Arguing on the same principle, the National Assembly has proceeded further. They

have conceived that the laws ought to create no inequality of combination, to recognise all only in their capacity of citizens, and to offer no assistance to the natural preponderance of partial over general interest.

But, besides the general source of hostility to Orders, the particular circumstances of France presented other objections, which it is necessary to consider more in detail.

It is in the first place to be remarked, that all the bodies and institutions of the kingdom participated in the spirit of the ancient government, and in that view were incapable of alliance with a free constitution. They were tainted by the despotism of which they had been either members or instruments. Absolute monarchies, like every other consistent and permanent government, assimilate every thing with which they are connected to their own genius. The Nobility, the Priesthood, the Judicial Aristocracy, were unfit to be members of a free government, because their corporate character had been formed under arbitrary establishments. To have preserved these great corporations, would be to have retained the seeds of reviving despotism in the bosom of freedom. This remark may merit the attention of Mr. Burke, as illustrating an important difference between the French and English Revolutions. The Clergy, the Peerage, and Judicature of England had imbibed in some degree the sentiments inspired by a government in which freedom had been eclipsed, but not extinguished. They were therefore qualified to partake of a more stable and improved liberty. But the case of France was different. These bodies had there imbibed every sentiment, and adopted every habit under arbitrary power. Their preservation in England, and their destruction in France, may in this view be justified on similar grounds. It is absurd to regard the Orders as remnants of that free constitution which France, in common with the other Gothic nations of Europe, once enjoyed. Nothing remained of these

ancient Orders but the name. The Nobility were no longer those haughty and powerful Barons, who enslaved the people, and dictated to the King. The Ecclesiastics were no longer that Priesthood before whom, in a benighted and superstitious age, all civil power was impotent and mute. They had both dwindled into dependants on the Crown. Still less do the opulent and enlightened Commons of France resemble its servile and beggared populace in the sixteenth century. Two hundred years of uninterrupted exercise had legitimatised absolute authority as much as prescription can consecrate usurpation. The ancient French Constitution was therefore no farther a model than that of any foreign nation which was to be judged of alone by its utility, and possessed in no respect the authority of establishment. It had been succeeded by another government; and if France was to recur to a period antecedent to her servitude for legislative models, she might as well ascend to the era of Clovis or of Charlemagne, as be regulated by the precedents of Henry III. or Mary of Medicis. All these forms of government existed only historically.

These observations include all the Orders. Let us consider each of them successively. The devotion of the Nobility of France to the Monarch was inspired equally by their sentiments, their interests, and their habits. "The feudal and chivalrous spirit of fealty," so long the prevailing passion of Europe, was still nourished in their bosoms by the military sentiments from which it first arose. The majority of them had still no profession but war,—no hope but in Royal favour. The youthful and indigent filled the camps; the more opulent and mature partook the splendour and bounty of the Court: but they were equally dependants on the Crown. To the plenitude of the Royal power were attached those immense and magnificent privileges, which divided France into distinct nations; which exhibited a Nobility monopolising the

rewards and offices of the State, and a people degraded to political helotism.* Men do not cordially resign such privileges, nor quickly dismiss the sentiments which they have inspired. The ostentatious sacrifice of pecuniary exemptions in a moment of general fermentation is a wretched criterion of their genuine feelings. They affected to bestow as a gift, what they would have been speedily compelled to abandon as an usurpation; and they hoped by the sacrifice of a part to purchase security for the rest. They have been most justly stated to be a band of political Janissaries †,—far more valuable to a Sultan than mercenaries, because attached to him by unchangeable interest and indelible sentiment. Whether any reform could have extracted from this body an element which might have entered into the new Constitution is a question which we shall consider when that political system comes under our review. Their existence, as a member of the Legislature, is a question distinct from their preservation as a separate Order, or great corporation, in the State. A senate of Nobles might have been established, though the Order of the Nobility had been destroyed; and England would then have been exactly copied. But it is of the Order that we now speak; for we are now considering the destruction of the old, not the formation of the new government. The suppression of the Nobility has been in England most absurdly confounded with the prohibition of titles. The union of the Orders in one Assembly was the first step towards the destruction of a legislative Nobility: the abolition of their feudal rights, in the memorable session of the 4th of August, 1789, may be regarded as the second. They retained after these measures no distinction but what was purely nominal; and it remained to be determined

* I say *political* in contradistinction to *civil*, for in the latter sense the assertion would have been untrue.

† See Mr. Rous's excellent Thoughts on Government.

what place they were to occupy in the new Constitution. That question was decided by the decree of the 22d of December, in the same year, which enacted, that the Electoral Assemblies were to be composed without any regard to rank; and that citizens of all Orders were to vote in them indiscriminately. The distinction of Orders was thus destroyed: the Nobility were to form no part of the new Constitution, and were stripped of all that they had enjoyed under the old government, but their titles.

Hitherto all had passed unnoticed, but no sooner did the Assembly, faithful to their principles, proceed to extirpate the external signs of the ranks, which they no longer tolerated, than all Europe resounded with clamours against their Utopian and levelling madness. The "incredible"* decree of the 19th of June, 1790, for the suppression of titles, is the object of all these invectives; yet without that measure the Assembly would certainly have been guilty of the grossest inconsistency and absurdity. An untitled Nobility forming a member of the State, had been exemplified in some commonwealths of antiquity;—such were the Patricians in Rome: but a titled Nobility, without legal privileges, or political existence, would have been a monster new in the annals of legislative absurdity. The power was possessed without the bauble by the Roman aristocracy: the bauble would have been reverenced, while the power was trampled on, if titles had been spared in France. A titled nobility is the most undisputed progeny of feudal barbarism. Titles had in all nations *denoted offices:* it was reserved for Gothic Europe to attach them to *ranks.* Yet this conduct of our remote ancestors admits explanation; for with them offices were hereditary, and hence the titles denoting them became hereditary too. But we, who have rejected hereditary office, retain an usage to which it gave rise,

* So called by M. de Calonne.

and which it alone could justify. So egregiously is this recent origin of a titled Nobility misconceived, that it has been even pretended to be necessary to the order and existence of society:—a narrow and arrogant mistake, which would limit all political remark to the Gothic states of Europe, or establish general principles on events that occupy so short a period of history, and manners that have been adopted by so slender a portion of the human race. A titled Nobility was equally unknown to the splendid monarchies of Asia, and to the manly simplicity of the ancient commonwealths.* It arose from the peculiar circumstances of modern Europe; and yet its necessity is now erected on the basis of universal experience, as if these other renowned and polished states were effaced from the records of history, and banished from the society of nations. "Nobility is the Corinthian capital of polished states:"—the august fabric of society is deformed and encumbered by such Gothic ornaments. The massy Doric that sustains it is Labour; and the splendid variety of arts and talents that solace and embellish life, form the decorations of its Corinthian and Ionic capitals.

Other motives besides the extirpation of feudality, disposed the French Legislature to the suppression of titles. To give stability to a popular government, a democratic character must be formed, and democratic sentiments inspired. The sentiment of equality which titular distinctions have, perhaps, more than any other cause, extinguished in Europe, and without which

* Aristocratic bodies did indeed exist in the ancient world, but *titles* were unknown. Though they possessed political privileges, yet as these did not affect the *manners*, they had not the same inevitable tendency to taint the public character as titular distinctions. These bodies too being in general open to *property*, or *office*, they are in no respect to be compared to the Nobles of Europe. They might affect the *forms* of a free government as much, but they did not in the same proportion injure the *spirit* of freedom.

democratic forms are impotent and short-lived, was to be revived; and a free government was to be established, by carrying the spirit of equality and freedom into the feelings, the manners, and the most familiar intercourse of men. The badges of inequality, which were perpetually inspiring sentiments adverse to the spirit of the government, were therefore destroyed, as distinctions which only served to unfit the Nobility for obedience, and the people for freedom,—to keep alive the discontent of the one, and to perpetuate the servility of the other,—to deprive the one of the moderation that sinks them into citizens, and to rob the other of the spirit that exalts them into free men. A single example can alone dispel inveterate prejudices. Thus thought our ancestors at the Revolution, when they deviated from the succession, to destroy the prejudice of its sanctity. Thus also did the legislators of France feel, when, by the abolition of titles, they gave a mortal blow to the slavish prejudices which unfitted their country for freedom. It was a practical assertion of that equality which had been consecrated in the Declaration of Rights, but which no abstract assertion could have conveyed into the spirits and the hearts of men. It proceeded on the principle that the security of a revolution of *government* can only arise from a revolution of *character*.

To these reasonings it has been opposed, that hereditary distinctions are the *moral treasure* of a state, by which it excites and rewards public virtue and public service, and which, without national injury or burden, operates with resistless force on generous minds. To this I answer, that of *personal* distinctions this description is most true; but that this moral treasury of honour is in fact impoverished by the improvident profusion that has made them hereditary. The possession of honours by that multitude, who have inherited but not acquired them, engrosses and depreciates these incentives and rewards of virtue. Were they purely personal, their value

would be doubly enhanced, as the possessors would be fewer while the distinction was more honourable. Personal distinctions then every wise state will cherish as its surest and noblest resource; but of hereditary title, — at least in the circumstances of France*, — the abolition seems to have been just and politic.

The fate of the Church, the second great corporation that sustained the French despotism, has peculiarly provoked the indignation of Mr. Burke. The dissolution of the Church as a body, the resumption of its territorial revenues, and the new organisation of the priesthood, appear to him to be dictated by the union of robbery and irreligion, to glut the rapacity of stockjobbers, and to gratify the hostility of atheists. All the outrages and proscriptions of ancient or modern tyrants vanish, in his opinion, in comparison with this confiscation of the property of the Gallican Church. Principles had, it is true, been on this subject explored, and reasons had been urged by men of genius, which vulgar men deemed irresistible. But with these reasons Mr. Burke will not deign to combat. "You do not imagine, Sir," says he to his correspondent, "that I am going to compliment this *miserable description of persons* with any long discussion?"†

* I have been grossly misunderstood by those who have supposed this qualification an assumed or affected reserve. I believe the principle only as qualified by the circumstances of different nations.

† The Abbé Maury, who is not less remarkable for the fury of eloquent declamation, than for the inept parade of historical erudition, attempted in the debate on this subject to trace the opinion higher. Base lawyers, according to him, had insinuated it to the Roman Emperors, and against it was pointed the maxim of the civil law, "Omnia tenes Cæsar imperio, sed non dominio." Louis XIV. and Louis XV. had, if we may believe him, both been assailed by this Machiavelian doctrine, and both had repulsed it with magnanimous indignation. The learned Abbé committed only one mistake. The despots of Rome and France had indeed been poisoned with the idea that they were the immediate proprietors of their subjects' estates. That opinion is execrable and flagitious; but it is not, as we shall see, the doctrine of the French *legislators*.

What immediately follows this contemptuous passage is so outrageously offensive to candour and urbanity, that an honourable adversary will disdain to avail himself of it. The passage itself, however, demands a pause. It alludes to an opinion, of which I trust Mr. Burke did not know the origin. That the Church lands were national property, was not first asserted among the Jacobins, or in the Palais Royal. The author of that opinion, — the master of that wretched description of persons, whom Mr. Burke disdains to encounter, was one whom he might have combated with glory, — with confidence of triumph in victory, and without fear or shame in defeat. The author of that opinion was Turgot! a name now too high to be exalted by eulogy, or depressed by invective. That benevolent and philosophic statesman delivered it, in the article "Foundation" of the Encyclopédie, as the calm and disinterested opinion of a scholar, at a moment when he could have no object in palliating rapacity, or prompting irreligion. It was no doctrine contrived for the occasion by the agents of tyranny: it was a principle discovered in pure and harmless speculation, by one of the best and wisest of men. I adduce the authority of Turgot, not to oppose the arguments (if there had been any), but to counteract the insinuations of Mr. Burke. The authority of his assertions forms a prejudice, which is thus to be removed before we can hope for a fair audience at the bar of Reason. If he insinuates the flagitiousness of these opinions by the supposed vileness of their origin, it cannot be unfit to pave the way for their reception, by assigning to them a more illustrious pedigree.

But dismissing the genealogy of doctrines, let us examine their intrinsic value, and listen to no voice but that of truth. "Are the lands occupied by the Church the property of its members?" Various considerations present themselves, which may elucidate the subject.

It has not hitherto been supposed that any class of public servants are proprietors. They are salaried * by the State for the performance of certain duties. Judges are paid for the distribution of justice; kings for the execution of the laws; soldiers, where there is a mercenary army, for public defence; and priests, where there is an established religion, for public instruction. The mode of their payment is indifferent to the question. It is generally in rude ages by land, and in cultivated periods by money. But a territorial pension is no more property than a pecuniary one. The right of the State to regulate the salaries of those servants whom it pays in money has not been disputed: and if it has chosen to provide the revenue of a certain portion of land for the salary of another class of servants, wherefore is its right more disputable, to resume that land, than to establish a new mode of payment? In the early history of Europe, before fiefs became hereditary, great landed estates were bestowed by the sovereign, on condition of military service. By a similar tenure did the Church hold its lands. No man can prove, that because the State has intrusted its ecclesiastical servants with a portion of land, as the source and security of their *pensions*, they are in any respect more the proprietors of it, than the other servants of the State are of that portion of the revenue from which they are paid.

The lands of the Church possess not the most simple and indispensable requisites of property. They are not even pretended to be held for the *benefit* of those who enjoy them. This is the obvious criterion between private property and a pension for public service. The destination of the first is avowedly the comfort and happiness of the individual who enjoys it: as he is conceived to be the sole judge of this happiness, he possesses the most unlimited rights of enjoyment,

* "Ils sont ou *salariés*, ou mendians, ou voleurs,"—was the expression of M. Mirabeau respecting the priesthood.

of alienation, and even of abuse. But the lands of the Church, destined for the support of public servants, exhibited none of these characters of property. They were inalienable, because it would have been not less absurd for the priesthood to have exercised such authority over these lands, than it would be for seamen to claim the property of a fleet which they manned, or soldiers that of a fortress they garrisoned.

It is confessed that no individual priest was a proprietor, and that the utmost claim of any one was limited to a possession for life of his stipend. If all the priests, taken individually, were not proprietors, the priesthood, as a body, cannot claim any such right. For what is a body, but an aggregate of individuals? and what new right can be conveyed by a mere change of name? Nothing can so forcibly illustrate this argument as the case of other corporations. They are voluntary associations of men for their own benefit. Every member of them is an absolute sharer in their property: it is therefore alienated and inherited. Corporate property is here as sacred as individual, because in the ultimate analysis it is the same. But the priesthood is a corporation, endowed by the country, and destined for the benefit of others: hence the members have no separate, nor the body any collective, right of property. They are only entrusted with the administration of the lands from which their salaries are paid.*

It is from this last circumstance that the legal semblance of property arises. In charters, bonds, and all other proceedings of law, these salaries are treated with the same formalities as real property. "They are identified," says Mr. Burke, "with the mass of private property;" and it must be confessed, that if

* This admits a familiar illustration. If a landholder chooses to pay his steward for the collection of his rents, by permitting him to possess a farm *gratis*, is he conceived to have resigned his property in the farm? The case is precisely similar.

we are to limit our view to form, this language is correct. But the repugnance of these formalities to legal truth proceeds from a very obvious cause. If estates are vested in the clergy, to them most unquestionably ought to be entrusted the protection of these estates in all contests at law; and actions for that purpose can only be maintained with facility, simplicity, and effect, by the fiction of their being proprietors. Nor is this the only case in which the spirit and the forms of law are at variance respecting property. Scotland, where lands still are held by feudal tenures, will afford us a remarkable example. There, if we extend our views no further than legal forms, the "superior" is to be regarded as the proprietor, while the real proprietor appears to be only a tenant for life. In this case, the vassal is formally stript of the property which he in fact enjoys: in the other, the Church is formally invested with a property, to which in reality it had no claim. The argument of Prescription will appear to be altogether untenable: for prescription implies a certain period during which the rights of property have been exercised; but in the case before us they never were exercised, because they never could be supposed to exist. It must be proved that these possessions were of the nature of property, before it can follow that they are protected by prescription; and to plead the latter is to take for granted the question in dispute.*

* There are persons who may not relish the mode of reasoning here adopted. They contend that property, being the creature of civil society, may be resumed by that public will which created it; and on this principle they justify the National Assembly of France. But such a justification is adverse to the principles of that Assembly, for they have consecrated it as one of the first maxims of their Declaration of Rights, "that the State cannot violate property, except in cases of urgent necessity, and on condition of previous indemnification." This defence too will not justify their selection of Church property, in preference of all others, for resumption. It certainly ought in this view to have fallen equally on all citizens. The principle is besides false in the

When the British Islands, the Dutch Republic, and the German and Scandinavian States, reformed their ecclesiastical establishments, the howl of sacrilege was the only armour by which the Church attempted to protect its pretended property: the age was too tumultuous and unlettered for discussions of abstract jurisprudence. This howl seems, however, to have fallen into early contempt. The Treaty of Westphalia secularised many of the most opulent benefices of Germany, under the mediation and guarantee of the first Catholic Powers of Europe. In our own island, on the abolition of episcopacy in Scotland at the Revolution, the revenues of the Church peaceably devolved on the sovereign, and he devoted a portion of them to the support of the new establishment. When, at a still later period, the Jesuits were suppressed in most Catholic monarchies, the wealth of that formidable and opulent body was everywhere seized by the sovereign. In all these memorable examples, no traces are to be discovered of the pretended property of the Church. The salaries of a class of public servants were resumed by the State, when it ceased to deem their service, or the mode of it, useful. That claim, now so forcibly urged by M. de Calonne, was probably little respected by him, when he lent his agency to the destruction of the Jesuits with such peculiar activity and rancour. The

extreme to which it is assumed. Property is indeed in some sense created by an act of the public will: but it is by one of those *fundamental* acts which constitute society. Theory proves it to be essential to the social state. Experience proves that it has, in some degree, existed in every age and nation of the world. But those public acts which form and endow corporations are subsequent and subordinate; they are only *ordinary expedients* of legislation. The property of individuals is established on *a general principle*, which seems coeval with civil society itself: but corporate bodies are instruments fabricated by the legislator for a *specific* purpose, which ought to be preserved while they are beneficial, amended when they are impaired, and rejected when they become useless or injurious.

sacredness of their property could not have strongly impressed one who was instrumental in degrading the members of that renowned and accomplished society, the glory of Catholic Europe, from their superb endowments to the rank of scanty and beggarly pensioners. The religious horror which the priesthood had attached to spoliation of Church property has long been dispelled; and it was reserved for Mr. Burke to renew that cry of sacrilege, which, in the darkness of the sixteenth century, had resounded in vain. No man can be expected to oppose arguments to epithets. When a definition of sacrilege is given, consistent with good logic and plain English, it will be time enough to discuss it. Till that definition (with the Greek Calends) comes, I should as soon dispute about the meaning of sacrilege as about that of heresy or witchcraft.

The whole subject is indeed so clear that little diversity of opinion could have arisen, if the question of the inviolability of Church property had not been confounded with the claims of the present incumbents. The distinction, though neither stated by Mr. Burke nor M. de Calonne, is extremely simple. The State is the proprietor of the Church revenues; but its faith, it may be said, is pledged to those who have entered into the Church, for the continuance of the incomes, for which they have abandoned all other pursuits. The right of the State to arrange at its pleasure the revenues of any future priests may be confessed; while a doubt may be entertained, whether it is competent to change the fortune of those to whom it has solemnly promised a certain income for life. But these distinct subjects have been confounded, that sympathy with suffering individuals might influence opinion on a general question, — that feeling for the degradation of its hierarchy might supply the place of argument to establish the property of the Church. In considering this subject distinctly, it cannot be denied, that the mildest, the most equit-

able, and the most usual expedient of civilised states in periods of emergency, is the reduction of the salaries of their servants, and the suppression of superfluous places. This and no more has been done regarding the Church of France. Civil, naval, and military servants of the State are subject to such retrenchments in a moment of difficulty. Neither the reform of a civil office, nor the reduction of a regiment, can be effected without wounding individuals.* But all men who enter into the public service must do so with the implied condition of subjecting their emoluments, and even their official existence, to the exigencies of the State. The great grievance of such derangements is the shock they give to family sentiments. This was precluded in the instance under discussion by the compulsory celibacy of the Romish Church; and when the debts of the clergy are incorporated with those of the State, and their subsistence insured by moderate incomes, though Sensibility may, in the least retrenchment, find somewhat to lament, Justice will, in the whole of these arrangements, discover little to condemn. To the individual members of the Church of France, whose hopes and enjoyments have been abridged by this resumption, no virtuous mind will refuse the tribute of its sympathy and its regrets. Every man of humanity must wish, that public exigencies had permitted the French Legislature to spare the income of the present incumbents, and more especially of those whom they still continue in the discharge of active functions. But these sentiments imply no sorrow at the downfall of a great corporation,—the implacable enemy of freedom,—at the conversion of an immense public property to national use,—or at the reduction of a servile and imperious priesthood to humble utility. The attainment of these great objects console us for the portion of evil that was, perhaps, inse-

* This is precisely the case of "damnum absque injuriâ."

parable from it, and will be justly applauded by a posterity too remote to be moved by comparatively minute afflictions.

The enlightened observer of an age thus distant will contemplate with peculiar astonishment the rise, progress, decay and downfall of spiritual power in Christian Europe.* It will attract his attention as an appearance which stands alone in history. Its connection in all stages of its progress with the civil power will peculiarly occupy his mind. He will remark the unpresuming humility by which it gradually gained the favour, and divided the power, of the magistrate,—the haughty and despotic tone in which it afterwards gave law to sovereigns and their subjects,—the zeal with which, in the first desperate moments of decline, it armed the people against the magistrate, and aimed at re-establishing spiritual despotism on the ruins of civil order; and he will point out the asylum which it at last found from the hostilities of Reason in the prerogatives of that temporal despotism of which it had so long been the implacable foe. The first and last of these periods will prove, that the priesthood are servilely devoted when they are weak: the second and third, that they are dangerously ambitious when strong. In a state of feebleness, they are dangerous to liberty: possessed of power, they are dangerous to civil government itself. But the last period of their progress will be that which will appear to have been peculiarly connected with the state of France.

There can be no protection for the opulence and even existence† of an European priesthood in an enlightened period, but the throne. It forms the

* Did we not dread the ridicule of political prediction, it would not seem difficult to assign its period. Church power (unless some Revolution, auspicious to priestcraft, should replunge Europe into ignorance) will certainly not survive the nineteenth century.

† I always understand their *corporate* existence.

only bulwark against the inroads of reason: for the superstition which once formed its power is gone. Around the throne therefore they rally; and to the monarch they transfer the devotion which formerly attached them to the Church; while the fierceness of priestly * zeal has been succeeded by the more peaceful sentiments of a courtly and polished servility. Such is, in a greater or less degree, the present condition of the Church in every nation of Europe. Yet it is for the dissolution of such a body that France has been reproached. It might as well be maintained, that in her conquests over despotism, she ought to have spared the strongest fortresses and most faithful troops of her adversary: — for such in truth were the corporations of the Nobility and the Church. The National Assembly have only ensured permanence to their establishments, by dismantling the fortresses, and disbanding the troops of their vanquished foe.

In the few remarks that are here made on the Nobility and Clergy of France, we confine ourselves strictly to their *political* and *collective* character: Mr. Burke, on the contrary, has grounded his eloquent apology purely on their *individual* and *moral* character. The latter, however, is totally irrelevant; for we are not discussing what place they ought to occupy in society as individuals, but as a body. We are not considering the demerit of citizens whom it is fit to punish, but the spirit of a body which it is politic to dissolve.

The Judicial Aristocracy formed by the Parliaments, seems still less susceptible of union with a free government. Their spirit and claims were equally incompatible with liberty. They had imbibed a spirit congenial to the authority under which they had acted, and suitable to the arbitrary genius of the laws which they had dispensed; while they retained those ambiguous and indefinite claims to a share in the

* *Odium Theologicum.*

legislation, which the fluctuations of power in the kingdom had in some degree countenanced. The spirit of a corporation was from the smallness of their numbers more concentrated and vigorous in them than in the Nobles and Clergy; and whatever aristocratic zeal is laid to the charge of the Nobility, was imputable with tenfold force to the ennobled magistrates, who regarded their recent honours with an enthusiasm of vanity, inspired by that bigoted veneration for rank which is the perpetual character of upstarts. A free people could not form its tribunals of men who pretended to any control on the legislature. Courts of justice, in which seats were legally purchased, had too long been endured: judges who regarded the right of dispensing justice as a marketable commodity, could neither be fit organs of equitable laws, nor suitable magistrates for a free state. It is vain to urge with Mr. Burke the past services of these judicial bodies. It is not to be denied that Montesquieu is correct, when he states, that under bad governments one abuse often limits another. The usurped authority of the Parliaments formed, it is true, some bulwark against the caprice of the Court. But when the abuse is destroyed, why preserve the remedial evil? Superstition certainly alleviates the despotism of Turkey: but if a rational government could be erected in that empire, it might with confidence disclaim the aid of the Koran, and despise the remonstrances of the Mufti. To such establishments, let us pay the tribute of gratitude for past benefit; but when their utility no longer exists, let them be canonised by death, that their admirers may be indulged in all the plenitude of posthumous veneration.

The three Aristocracies—Military, Sacerdotal, and Judicial—may be considered as having formed the French Government. They have appeared, so far as we have considered them, incorrigible. All attempts to improve them would have been little better than (to use the words of Mr. Burke) "mean reparations

on mighty ruins." They were not perverted by the accidental depravity of their members; they were not infected by any transient passion, which new circumstances would extirpate: the fault was in the essence of the institutions themselves, which were irreconcileable with a free government.

But, it is objected, these institutions might have been *gradually* reformed*: the spirit of freedom would have silently entered; the progressive wisdom of an enlightened nation would have remedied, in process of time, their defects, without convulsion. To this argument I confidently answer, that these institutions would have destroyed Liberty, before Liberty had corrected their spirit. Power vegetates with more vigour after these gentle prunings. A slender reform amuses and lulls the people; the popular enthusiasm subsides; and the moment of effectual reform is irretrievably lost. No important political improvement was ever obtained in a period of tranquillity. The corrupt interest of the governors is so strong, and the cry of the people so feeble, that it were vain to expect it. If the effervescence of the popular mind is suffered to pass away without effect, it would be absurd to expect from languor what enthusiasm has not obtained. If radical reform is not, at such a moment, procured, all partial changes are evaded and defeated in the tranquillity which succeeds.† The gradual reform that arises from the presiding principle exhibited in the specious theory of Mr. Burke, is belied by the experience of all ages. Whatever excellence, whatever freedom is discoverable in governments, has been infused into them by the shock of a revolution;

* Burke, pp. 248—252.

† "Ignore-t-on que c'est en attaquant, en renversant tous les abus à la fois, qu'on peut espérer de s'en voir délivré sans retour; que les reformes lentes et partielles ont toujours fini par ne rien reformer; enfin, que l'abus que l'on conserve devient l'appui et bientôt le restaurateur de tous ceux qu'on croioit avoir détruits?" — Adresse aux François, par l'Evêque d'Autun, 11 Février, 1790.

and their subsequent progress has been only the accumulation of abuse. It is hence that the most enlightened politicians have recognised the necessity of frequently recalling their first principles; — a truth equally suggested to the penetrating intellect of Machiavel, by his experience of the Florentine democracy, and by his research into the history of ancient commonwealths. Whatever is good ought to be pursued at the moment it is attainable. The public voice, irresistible in a period of convulsion, is contemned with impunity, when spoken during the lethargy into which nations are lulled by the tranquil course of their ordinary affairs. The ardour of reform languishes in unsupported tediousness: it perishes in an impotent struggle with adversaries, who receive new strength with the progress of the day. No hope of great political improvement — let us repeat it — is to be entertained from tranquillity *; for its natural operation is to strengthen all those who are interested in perpetuating abuse. The National Assembly seized the moment of eradicating the corruptions and abuses which afflicted their country. Their reform was total, that it might be commensurate with the evil: and no part of it was delayed, because to spare an abuse at such a period was to consecrate it; and as the enthusiasm which carries nations to such enterprises is short-lived, so the opportunity of reform, if once neglected, might be irrevocably fled.

But let us ascend to more general principles, and hazard bolder opinions. Let us grant that the state of France was not so desperately incorrigible. Let us suppose that changes far more gentle, — innovations far less extensive, — would have remedied the grosser evils of her government, and placed it almost on a

* The only apparent exception to this principle is the case where sovereigns make important concessions to appease discontent, and avert convulsion. This, however, rightly understood, is no exception; for it arises evidently from the same causes, acting at a period less advanced in the progress of popular interposition.

level with free and celebrated constitutions. These concessions, though too large for truth, will not convict the Assembly. By what principle of reason, or of justice, were they precluded from aspiring to give France a government less imperfect than accident had formed in other states? Who will be hardy enough to assert, that a better constitution is not attainable than any which has hitherto appeared? Is the limit of human wisdom to be estimated in the science of politics alone, by the extent of its present attainments? Is the most sublime and difficult of all arts, — the improvement of the social order, — the alleviation of the miseries of the civil condition of man, — to be alone stationary, amid the rapid progress of every other — liberal and vulgar — to perfection? Where would be the atrocious guilt of a grand experiment, to ascertain the portion of freedom and happiness, that can be created by political institutions?

That guilt (if it be guilt) is imputable to the National Assembly. They are accused of having rejected the guidance of experience, — of having abandoned themselves to the illusion of theory, — and of having sacrificed great and attainable good to the magnificent chimeras of ideal excellence. If this accusation be just, — if they have indeed abandoned experience, the basis of human knowledge, as well as the guide of human action, — their conduct deserves no longer any serious argument: but if (as Mr. Burke more than once insinuates) their contempt of it is avowed and ostentatious, it was surely unworthy of him to have expended so much genius against so preposterous an insanity. But the explanation of *terms* will diminish our wonder. Experience may, both in the arts and in the conduct of human life, be regarded in a double view, either as finishing *models*, or *principles*. An artist who frames his machine in exact imitation of his predecessor, is in the *first sense* said to be guided by experience. In this sense all improvements of human life, have been *deviations* from ex-

perience. The first visionary innovator was the savage who built a cabin, or covered himself with a rug. If this be experience, man is degraded to the unimproveable level of the instinctive animals. But in the second acceptation, an artist is said to be guided by experience, when the inspection of a machine discovers to him principles, which teach him to improve it; or when the comparison of many, both with respect to their excellences and defects, enables him to frame one different from any he had examined, and still more perfect. In this latter sense, the National Assembly have perpetually availed themselves of experience. History is an immense collection of experiments on the nature and effect of the various parts of various governments. Some institutions are experimentally ascertained to be beneficial; some to be most indubitably destructive; a third class, which produces partial good, obviously possesses the capacity of improvement. What, on such a survey, was the dictate of enlightened experience? Not surely to follow any model in which these institutions lay indiscriminately mingled; but, like the mechanic, to compare and generalise, and, guided equally by experience, to imitate and reject. The process is in both cases the same: the rights and the nature of man are to the legislator what the general properties of matter are to the mechanic, — the first guide, — because they are founded on the widest experience. In the second class are to be ranked observations on the excellences and defects of all governments which have already existed, that the construction of a more perfect machine may result. But experience is the basis of all: — not the puny and trammelled experience of a *statesman by trade*, who trembles at any change in the *tricks* which he has been taught, or the *routine* in which he has been accustomed to move; but an experience liberal and enlightened, which hears the testimony of ages and nations, and collects from it the general principles which regulate the mechanism of society.

*Legis*lators are under no obligation to retain a con-

stitution, because it has been found "*tolerably* to answer the common purposes of government." It is absurd to *expect*, but it is not absurd to *pursue* perfection. It is absurd to acquiesce in evils, of which the remedy is obvious, because they are less grievous than those which are endured by others. To suppose that social order is not capable of improvement from the progress of the human understanding, is to betray the inconsistent absurdity of an arrogant confidence in our attainments, and an abject distrust of our powers. If, indeed, the sum of evil produced by political institutions, even in the least imperfect governments, were small, there might be some pretence for this dread of innovation,—this horror at any remedy, —which has raised such a clamour over Europe. But, on the contrary, in an estimate of the sources of human misery, after granting that one portion is to be attributed to disease, and another to private vices, it might perhaps be found that a third equal part arose from the oppressions and corruptions of government, disguised under various forms. All the governments that now exist in the world (except that of the United States of America) have been fortuitously formed: they are not the work of art. They have been altered, impaired, improved, and destroyed by accidental circumstances, beyond the foresight or control of wisdom. Their parts thrown up against present emergencies formed no systematic whole. It was certainly not to have been presumed that these *fortuitous products* should have surpassed the works of intellect, and precluded all nearer approaches to perfection. Their origin without doubt furnishes a strong presumption of an opposite nature. It might teach us to expect in them many discordant principles, many jarring forms, much unmixed evil, and much imperfect good,—many institutions which had long survived their motive, and many of which reason had never been the author, nor utility the object. Experience, *even in the best of them*, accords with such expectations.

A government of art, the work of legislative intel-

lect, reared on the immutable basis of natural right and general happiness, which should combine the excellences and exclude the defects of the various constitutions which chance has scattered over the world, instead of being precluded by the perfection of any of those forms, was loudly demanded by the injustice and absurdity of them all. It was time that men should learn to tolerate nothing ancient that reason does not respect, and to shrink from no novelty to which reason may conduct. It was time that the human powers, so long occupied by subordinate objects, and inferior arts, should mark the commencement of a new era in history, by giving birth to the art of improving government, and increasing the civil happiness of man. It was time, as it has been wisely and eloquently said, that legislators, instead of that narrow and dastardly *coasting* which never ventures to lose sight of usage and precedent, should, guided by the *polarity* of reason, hazard a bolder navigation, and discover, in unexplored regions, the treasure of public felicity.

The task of the French legislators was, however, less hazardous. The philosophers of Europe had for a century discussed all objects of public economy. The conviction of a great majority of enlightened men had, after many controversies, become, on most questions of general politics, uniform. A degree of certainty, perhaps nearly equal to that which such topics will admit, had been attained. The National Assembly were therefore not called on to make discoveries: it was sufficient if they were not uninfluenced by the opinions, nor exempt from the spirit of their age. They were fortunate enough to live in a period when it was only necessary to affix the stamp of laws to what had been prepared by the research of philosophy. They will here, however, be attacked by a futile common-place. The most specious theory, it will be said, is often impracticable; and any attempt to transfer speculative doctrines into the practice of states is chimerical and frantic. If by "theory" be

understood vague conjecture, the objection is not worth discussion: but if by theory be meant inference from the moral nature and political state of man, then I assert, that whatever such theory pronounces to be true, must be practicable; and that whatever on the subject is impracticable, must be false. To resume the illustration from the mechanical arts:—geometry, it may be justly said, bears nearly the same relation to mechanics that abstract reasoning does to politics.* The moral forces which are employed in politics are the passions and interests of men, of which it is the province of metaphysics to teach the nature and calculate the strength, as mathematics do those of the mechanical powers. Now suppose it had been mathematically proved, that by a certain alteration in the structure of a machine, its effect would be increased four-fold, would an instructed mechanic hesitate about the change? Would he be deterred, because he was the first to discover it? Would he thus sacrifice his own advantage to the blindness of his predecessors, and the obstinacy of his cotemporaries? Let us suppose a whole nation, of which the artisans thus rejected theoretical improvement: mechanics might there, as a *science*, be most profoundly understood, while as an *art*, it exhibited nothing but rudeness and barbarism. The principles of Newton and Archimedes might be taught in the schools, while the architecture of the people might not have reached beyond the cabins of New Holland, or the ship-building of the Esquimaux. In a state of political science somewhat similar has Europe continued for a great part of the eighteenth century.†

* I confess my obligation for this parallel to a learned friend, who though so justly admired in the republic of letters for his excellent writings, is still more so by his friends for the rich, original, and masculine turn of thought that animates his conversation. But the Continuator of the History of Philip III. little needs my praise.

† Mechanics, because no passion or interest is concerned in the

All the great questions of general politics had, as we have remarked, been nearly decided, and almost all the decisions had been hostile to established institutions; yet these institutions still flourished in all their vigour. The same man who cultivated liberal science in his cabinet was compelled to administer a barbarous jurisprudence on the bench. The same Montesquieu, who at Paris reasoned as a philosopher of the eighteenth, was compelled to decide at Bordeaux as a magistrate of the fourteenth century. The apostles of toleration and the ministers of the Inquisition were cotemporaries. The torture continued to be practised in the age of Beccaria: the Bastille devoured its victims in the country of Turgot. The criminal code, even where it was the mildest, was oppressive and savage. The laws respecting religious opinion, even where there was a pretended toleration, outraged the most evident deductions of reason. The true principles of commercial policy, though they had been reduced to demonstration, influenced the councils of no states. Such was the fantastic spectacle presented by the European nations, who, philosophers in theory, and barbarians in practice, exhibited to the observing eye two opposite and inconsistent aspects of manners and opinions. But such a state of things carried in itself the seeds of its own destruction. Men will not long dwell in hovels, with the model of a palace before their eyes.

Such was indeed in some measure the position of the ancient world. But the art of printing had not

perpetuity of abuse, always yield to scientific improvement: politics, for the contrary reason, always resist it. It was the remark of Hobbes, "that if any interest or passion were concerned in disputing the theorems of geometry, different opinions would be maintained regarding them." It has actually happened (as if to justify the remark of that great man) that under the administration of Turgot a financial reform, grounded on a mathematical demonstration, has been derided as visionary nonsense! So much for the sage preference of practice to theory.

then provided a channel by which the opinions of the learned pass insensibly into the popular mind. A bulwark then existed between the body of mankind and the reflecting few. They were distinct nations, inhabiting the same country; and the opinions of the one (I speak *comparatively* with modern times) had little influence on those of the other. But that bulwark is now levelled with the ground. The convictions of philosophy insinuate themselves by a slow, but certain progress, into popular sentiment. It is vain for the arrogance of learning to condemn the people to ignorance by reprobating superficial knowledge. The people cannot be profound: but the truths which regulate the moral and political relations of man, are at no great distance from the surface. The great works in which discoveries are contained cannot be read by the people; but their substance passes through a variety of minute and circuitous channels to the shop and the hamlet. The conversion of these works of unproductive splendour into latent use and unobserved activity, resembles the process of nature in the external world. The expanse of a noble lake, —the course of a majestic river, imposes on the imagination by every impression of dignity and sublimity: but it is the moisture that insensibly arises from them which, gradually mingling with the soil, nourishes all the luxuriancy of vegetation, and adorns the surface of the earth.

It may then be remarked, that though liberal opinions so long existed with defective establishments, it was not natural that this state of things should be permanent. The philosophers of antiquity did not, like Archimedes, want a spot on which to fix their engines; but they wanted an engine wherewith to move the moral world. The press is that engine, and has subjected the powerful to the wise. The discussion of great truths has prepared a body of laws for the National Assembly: the diffusion of political knowledge has *almost* prepared a people to receive them;

and good men are at length permitted to indulge the *hope*, that the miseries of the human race are about to be alleviated. That hope may be illusive, for the grounds of its enemies are strong, — the folly and villany of men: yet they who entertain it will feel no shame in defeat, and no envy of the triumphant prediction of their adversaries;—"Meherculè malim cum Platone errare." Whatever be the ultimate fate of the French Revolutionists, the friends of freedom must ever consider them as the authors of the greatest attempt that has hitherto been made in the cause of man. They never can cease to rejoice, that in the long catalogue of calamities and crimes which blacken human annals, the year 1789 presents one spot on which the eye of humanity may with complacence dwell.

SECTION II.

OF THE COMPOSITION AND CHARACTER OF THE NATIONAL ASSEMBLY.

EVENTS are rarely separated by the historian from the character of those who are conspicuous in conducting them. From this alone they often receive the tinge which determines their moral colour. What is admired as noble pride in Sully, would be execrated as intolerable arrogance in Richelieu. But the degree of this influence varies with the importance of the events. In the ordinary affairs of state it is great, because in fact they are only of importance to posterity, as they illustrate the characters of those who have acted distinguished parts on the theatre of the world. But in events, which themselves are of immense magnitude, the character of those who conduct them becomes of far less relative importance. No ignominy is at the

present day reflected on the Revolution of 1688 from the ingratitude of Churchill, or the treachery of Sunderland. The purity of Somers, and the profligacy of Spencer, are equally lost in the splendour of that great transaction, — in the sense of its benefits, and the admiration of its justice. No moral impression remains on our mind, but that whatever voice speaks truth, whatever hand establishes freedom, delivers the oracles and dispenses the gifts of God.

If this be true of the deposition of James II. it is far more so of the French Revolution. Among many circumstances which distinguished that event, as unexampled in history, it was none of the least extraordinary, that it might truly be said to have been a Revolution *without leaders.* It was the effect of general causes operating on the people. It was the revolt of a nation enlightened from a common source. Hence it has derived its peculiar character; and hence the merits of the most conspicuous individuals have had little influence on its progress. The character of the National Assembly is of secondary importance indeed: but as Mr. Burke has expended so much invective against that body, a few strictures on his account of it will not be improper.

The representation of the Third Estate was, as he justly states, composed of lawyers, physicians, merchants, men of letters, tradesmen and farmers. The choice was, indeed, limited by necessity; for except men of these ranks and professions, the people had no objects of election, the army and the Church being engrossed by the Nobility. "No vestige of the landed interest of the country appeared in this representation," for an obvious reason; — because the Nobility of France, like the Gentry of England, formed almost exclusively the landed interest of the kingdom. These professions then could only furnish representatives for the *Tiers Etat.* They form the majority of that middle rank among whom almost all the sense and virtue of society reside. Their pretended incapacity

for political affairs is an arrogant fiction of statesmen which the history of revolutions has ever belied. These emergencies have never failed to create politicians. The subtle counsellors of Philip II. were baffled by the Burgomasters of Amsterdam and Leyden. The oppression of England summoned into existence a race of statesmen in her colonies. The lawyers of Boston, and the planters of Virginia, were transformed into ministers and negotiators, who proved themselves inferior neither in wisdom as legislators, nor in dexterity as politicians. These facts evince that the powers of mankind have been unjustly depreciated,—the difficulty of political affairs artfully magnified; and that there exists a quantity of talent *latent* among men, which ever rises to the level of the great occasions that call it forth.

But the predominance of the profession of the law,—that profession which teaches men "to augur misgovernment at a distance, and snuff the approach of tyranny in every tainted breeze*,"—was the fatal source from which, if we may believe Mr. Burke, have arisen the calamities of France. The majority of the Third Estate was indeed composed of lawyers. Their talents of public speaking, and their professional habits of examining questions analogous to those of politics, rendered them the most probable objects of popular choice, especially in a despotic country, where political speculation was no natural amusement for the leisure of opulence. But it does not appear that the majority of them consisted of the unlearned, mechanical, members of the profession.† From the list of the States-General, it would seem that the majority were *provincial advocates*,—a name of very different import from "*country attorneys*," and whose importance is not to be estimated by purely English ideas.

* Mr. Burke's Speech on American Affairs, 1775.

† See an accurate list of them in the Supplement to the Journal de Paris, 31st of May, 1789.

All forensic talent and eminence is here concentered in the capital: but in France, the institution of circuits did not exist; the provinces were imperfectly united; their laws various; their judicatures distinct, and almost independent. Twelve or thirteen Parliaments formed as many circles of advocates, who nearly emulated in learning and eloquence the Parisian Bar. This dispersion of talent was in some respect also the necessary effect of the immensity of the kingdom. No liberal man will in England bestow on the Irish and Scottish Bar the epithet "provincial" with a view of disparagement. The Parliaments of many provinces in France, presented as wide a field for talent as the Supreme Courts of Ireland and Scotland. The Parliament of Rennes, for example, dispensed justice to a province which contained two million three hundred thousand inhabitants *—a population equal to that of some respectable kingdoms of Europe. The cities of Bordeaux, Lyons, and Marseilles, surpass in wealth and population Copenhagen, Stockholm, Petersburg, and Berlin. Such were the theatres on which the provincial advocates of France pursued professional fame. A general Convention of the British empire would yield, perhaps, as distinguished a place to Curran and Erskine, and the other eminent and accomplished barristers of Dublin and Edinburgh, as to those of the capital: and on the same principles have the Thourets and Chapeliers of Rouen, and Rennes, acquired as great an ascendant in the National Assembly as the Targets and Camus's of the Parisian Bar.

The proof that this "faculty influence," as Mr. Burke chooses to phrase it, was not injuriously predominant, is to be found in the decrees of the Assembly respecting the judicial order. It must on his system have

* See a Report of the Population of France to the National Assembly, by M. Biron de la Tour, Engineer and Geographer to the King, 1790.

been their object to have established what he calls "a litigious constitution." The contrary has so notoriously been the case,—all their decrees have so obviously tended to lessen the importance of lawyers, by facilitating arbitrations, by the adoption of juries, by diminishing the expense and tediousness of suits, by the destruction of an intricate and barbarous jurisprudence, and by the simplicity introduced into all judicial proceedings, that their system has been accused of a direct tendency to extinguish the profession of the law. It is a system which may be condemned as leading to visionary excess, but which cannot be pretended to bear very strong marks of the supposed ascendant of "chicane."

To the lawyers, besides the parochial clergy, whom Mr. Burke contemptuously styles "Country Curates,"* were added, those Noblemen whom he so severely stigmatises as deserters from their Order. Yet the deputation of the Nobility who first joined the Commons, and to whom therefore that title best belongs, was not composed of men whom desperate fortunes and profligate ambition prepared for civil confusion. In that number were found the heads of the most ancient and opulent families in France,—the Rochefoucaults, the Richelieus, the Montmorencies, the Noailles. Among them was M. Lally, who has received such liberal praise from Mr. Burke. It will be difficult to discover in one individual of that body any interest adverse to the preservation of order, and the security of rank and wealth.

Having thus followed Mr. Burke in a very short sketch of the classes of men who compose the Assembly, let us proceed to consider his representation of the spirit and general rules which have guided it, and which, according to him, have presided over all the events of the Revolution. "A cabal of philosophic atheists had conspired the abolition of Christianity.

* It is hardly necessary to remark that *curé* means *rector*.

A monied interest, who had grown into opulence from the calamities of France, contemned by the Nobility for their origin, and obnoxious to the people by their exactions, sought the alliance of these philosophers; by whose influence on public opinion they were to avenge themselves on the Nobility, and conciliate the people. The atheists were to be gratified with the extirpation of religion, and the stock-jobbers with the spoils of the Nobles and the Church. The prominent features of the Revolution bear evidence of this league of impiety and rapine. The degraded establishment of the Church is preparatory to the abolition of Christianity; and all the financial operations are designed to fill the coffers of the monied capitalists of Paris." Such is the theory of Mr. Burke respecting the spirit and character of the French Revolution. To separate the portion of truth that gives plausibility to his statement from the falsehood that invests it with all its horrors, will however neither be a tedious nor a difficult task.

The commercial or monied interest has in all nations of Europe (taken as a body) been less prejudiced, more liberal, and more intelligent than the landed gentry. Their views are enlarged by a wider intercourse with mankind; and hence the important influence of commerce in liberalising the modern world. We cannot wonder then that this enlightened class ever prove the most ardent in the cause of freedom, and the most zealous for political reform. It is not wonderful that philosophy should find in them more docile pupils, and liberty more active friends, than in a haughty and prejudiced aristocracy. The Revolution in 1688 produced the same division in England. The monied interest long formed the strength of Whiggism, while a majority of the landed gentlemen long continued zealous Tories. It is not unworthy of remark, that the pamphleteers of Toryism accused the Whigs of the same hostility to religion of which Mr. Burke now supposes the existence in France. They pre-

dicted the destruction of the Church, and even the downfall of Christianity itself from the influx of heretics, infidels, and atheists, which the new Government of England protected. Their pamphlets have perished with the topic which gave them birth; but the talents and fame of Swift have preserved his, which furnish abundant proof of this coincidence in clamour between the enemies of the English, and the detractors of the French Revolution.

That the philosophers, the other party in this unwonted alliance between affluence and literature, in this new union of authors and bankers, did prepare the Revolution by their writings, it is the glory of its admirers to avow.* What the speculative opinions of these philosophers were on remote and mysterious questions is here of no importance. It is not as atheists, or theists, but as political reasoners, that they are to be considered in a political revolution. All their writings, on the subjects of metaphysics and theology, are foreign to the question. If Rousseau has had any influence in promoting the Revolution, it is not by his Letters from the Mountains, but by his Social Contract. If Voltaire contributed to spread liberality in France, it was not by his Philosophical Dictionary, but by his Defences of Toleration. The obloquy of their atheism (if it existed) is personal:

* Mr. Burke's remark on the English Free-thinkers is unworthy of him. It more resembles the rant by which priests inflame the languid bigotry of their fanatical adherents, than the calm, ingenuous, and manly criticism of a philosopher and a scholar. Had he made extensive inquiries among his learned friends, he must have found many who have read and admired Collins's incomparable tract on Liberty and Necessity. Had he looked abroad into the world, he would have found many who still read the philosophical works of Bolingbroke, not as philosophy, but as eloquent and splendid declamation. What he means by "their successors," I will not conjecture: I will not suppose that, with Dr. Hurd, he regards David Hume as "a puny dialectician from the north!" — yet it is hard to understand him in any other sense.

it does not belong to the Revolution; for that event could neither have been promoted nor retarded by abstract discussions of theology. The supposition of their conspiracy for the abolition of Christianity, is one of the most extravagant chimeras that ever entered the human imagination. Let us grant their infidelity in the fullest extent: still their philosophy must have taught them that the passions, whether rational or irrational, from which religion arises, could be eradicated by no human power from the heart of man; while their incredulity must have made them indifferent as to what particular mode of religion might prevail. These philosophers were not the apostles of any new revelation that was to supplant the faith of Christ: they knew that the heart can on this subject bear no void, and they had no interest in substituting the Vedam, or the Koran for the Gospel. They could have no reasonable motives to promote any revolution in the popular faith: their purpose was accomplished when the priesthood was disarmed. Whatever might be the freedom of their private speculations, it was not against religion, but against the Church, that their political hostility was directed.

But, says Mr. Burke, the degraded pensionary establishment, and the elective constitution of the new clergy of France is sufficient evidence of the design. The clergy are to be made contemptible, that the popular reverence for religion may be destroyed, and the way thus paved for its abolition. It is amusing to examine the different aspects which the same object presents to various minds. Mr. Hume vindicates the policy of an opulent establishment, as a bribe which purchases the useful inactivity of the priesthood. They have no longer, he supposes, any temptation to court a dangerous dominion over the minds of the people, because they are independent of it. Had that philosopher been now alive, he must on the same principle have remarked, that an elective clergy and a scantily endowed Church, had a far

greater tendency to produce fanaticism than irreligion. If the priests depend on the people, they can only maintain their influence by cultivating those passions in the popular mind, which give them an ascendant over it: to inflame these passions is their obvious ambition. Priests would be in a nation of sceptics contemptible,—in a nation of fanatics omnipotent. It has not therefore been more uniformly the habit of a clergy that depends on a court, to practise servility, than it would evidently be the interest of a clergy that depends on the people to cultivate religious enthusiasm. Scanty endowments, too, would still more dispose them to seek a consolation for the absence of worldly enjoyments, in the exercise of a flattering authority over the minds of men. Such would have been the view of a philosopher who was indifferent to Christianity, on the new constitution of the Gallican Church. He never would have dreamt of rendering Religion unpopular by devoting her ministers to activity,—contemptible by compelling them to purity,—or unamiable by divesting her of invidious splendour. He would have seen in these changes the seeds of enthusiasm and not of laxity. But he would have been consoled by the reflection, that the dissolution of the Church as a corporation had broken the strength of the priesthood; that religious liberty without limit would disarm the animosity of sects; and that the diffusion of knowledge would restrain the extravagances of fanaticism.

I am here only considering the establishment of the Gallican Church as an evidence of the supposed plan for abolishing Christianity: I am not discussing its intrinsic merits. I therefore personate a philosophic infidel, who, it would appear, must have discerned the tendency of this plan to be directly the reverse of that conceived by Mr. Burke.* It is in truth rather a

* The theory of Mr. Burke on the subject of religious establishments I am utterly at a loss to comprehend. He will not adopt

fanatical than an irreligious spirit which dictates the organisation of the Church of France. A Jansenist party had been formed in the old Parliaments through their long hostilities to the Jesuits and the see of Rome; members of which party have in the National Assembly, by the support of the inferior Clergy, acquired the ascendant in ecclesiastical affairs. Of this number is M. Camus. The new constitution of the Church accords exactly with their dogmas.* The clergy are, according to their principles, to notify to the Bishop of Rome their union in doctrine, but to recognise no subordination in discipline. The spirit of a dormant sect thus revived in a new shape at so critical a period, — the unintelligible subtleties of the Bishop of Ypres thus influencing the institutions of the eighteenth century, might present an ample field of reflection to an enlightened observer of human affairs: but it is sufficient for our purpose to observe the fact, and to remark the error of attributing to the hostile designs of atheism what in so great a degree has arisen from the ardour of religious zeal.

The establishment of the Church has not furnished any evidence of that to which Mr. Burke has attributed so much of the system of the National Assembly.

the impious reasoning of Mr. Hume, nor does he suppose with Warburton any "*alliance* between Church and State;" for he seems to conceive them to be originally the same. When he or his admirers translate his statements (pp. 145, 146.) into a series of propositions expressed in precise and unadorned English, they may become the proper objects of argument and discussion. In their present state they irresistibly remind one of the observations of Lord Bacon: — "Pugnax enim philosophiæ genus et sophisticum illaqueat intellectum; at illud alterum phantasticum, et tumidum, et quasi poeticum, magis blanditur intellectui. Inest enim homini quædam intellectûs ambitio non minor quam voluntatis, præsertim in ingeniis altis et elevatis." — Novum Organum, sect. xlv.

* See the Speech of M. Sieyes on Religious Liberty, where he reproaches the Ecclesiastical Committee with abusing the Revolution for the purpose of reviving the seminary of Port Royal. See also M. Condorcet, Sur l'Instruction Publique.

Let us examine whether a short review of their financial operations will supply the defect.*

To the gloomy statement of French finance offered by M. de Calonne, let us oppose the report of M. de la Rochefoucault, from the Committee of Finance, on the 9th of December, 1790, which from premises that appear indisputable, infers a considerable *surplus* revenue in the present year. The purity of that distinguished person has hitherto been arraigned by no party. That understanding must be of a singular construction which could hesitate between the statements of the Duc de la Rochefoucault and M. de Calonne. But without using this *argumentum ad verecundiam*, we remark, that there are radical faults, which vitiate the whole calculations of the latter, and the consequent reasonings of Mr. Burke. They are taken from a year of languishing and disturbed industry, and absurdly applied to the future revenue of peaceful and flourishing periods;—from a year in which much of the old revenue of the state had been destroyed, and during which the Assembly had scarcely commenced its new scheme of taxation. It is an error to assert that it was the Assembly that destroyed the former oppressive taxes, which formed so important a source of revenue: these taxes perished in the expiring struggle of the ancient government. No authority remaining in France could have maintained them. Calculations cannot fail of being most grossly illusive, which are formed from a period when many taxes had failed before they could be replaced by new impost, and when productive industry itself, the source of all revenue, was struck with a momentary palsy.† Mr. Burke discussed the financial merit of

* It may be remarked, that on the subject of finance I have declined all details. They were not necessary to my purpose, which was to consider the Assembly's arrangements of revenue, more with a view to their supposed political profligacy, than to their financial talents.

† Mr. Burke exults in the deficiency confessed by M. Vernet

the Assembly before it had begun its system of taxation. It is still premature to examine its general scheme of revenue, or to establish general maxims on the survey of a period which may be considered as an *interregnum* of finance.

The only financial operation which may be regarded as complete is their emission of *assignats* — the paper representative of the national property; which, while it facilitated the sale of that property, should supply the absence of specie in ordinary circulation. On this, as well as most other topics, the predictions of their enemies have been completely falsified. They predicted that no purchasers would be found hardy enough to trust their property on the tenure of a new and insecure establishment: but the national property has in all parts been bought with the greatest avidity. They predicted that the estimate of its value would prove exaggerated: but it has sold uniformly for double and treble that estimate. They predicted that the depreciation of the *assignats* would in effect heighten the price of the necessaries of life, and fall with the most cruel severity on the most indigent class of mankind: the event has however been, that the *assignats*, supported in their credit by the rapid sale of the property which they represented, have kept almost at *par*; that the price of the necessaries of life has lowered; and that the sufferings of the indigent have been considerably alleviated. Many millions of *assignats*, already committed to the flames, form the most unanswerable reply to the objections urged against them.* Many purchasers, not availing themselves of that indulgence for gradual payment,

to amount in August, 1790, to 8 millions sterling. He follows it with an invective against the National Assembly, which one simple reflection would have repressed. The suppression of the *gabelle* alone accounted for almost half of that deficiency! Its produce was estimated at 60 millions of livres, or about two millions and a half sterling.

* At this moment nearly *one-third*.

which in so immense a sale was unavoidable, have paid the whole price in advance. This has been peculiarly the case in the northern provinces, where opulent farmers have been the chief purchasers;—a happy circumstance, if it only tended to multiply that most useful and respectable class of men, who are at once proprietors and cultivators of the ground.

The evils of this emission in the circumstances of France were transient;—the beneficial effects permanent. Two great objects were to be obtained by it;—one of policy, and another of finance. The first was to attach a great body of proprietors to the Revolution, on the stability of which must depend the security of their fortunes. This is what Mr. Burke terms, making them accomplices in confiscation; though it was precisely the policy adopted by the English Revolutionists, when they favoured the growth of a national debt, to interest a body of creditors in the permanence of their new establishment. To render the attainment of the other great object—the liquidation of the public debt—improbable, M. de Calonne has been reduced to so gross a misrepresentation, as to state the probable value of the national property at only two *milliards* (about 83 millions sterling), though the best calculations have rated it at more than double that sum. There is every probability that this immense national estate will speedily disburden France of the greatest part of her national debt, remove the load of impost under which her industry has groaned, and open to her that career of prosperity for which she was so evidently destined by the bounty of Nature. With these great benefits, with the acquittal of the public debt, and the stability of freedom, this operation has, it must be confessed, produced some evils. It cannot be denied to have promoted, in some degree, a spirit of gambling; and it may give an undue ascendant in the municipal bodies to the agents of the paper circulation. But these evils are fugitive: the moment that witnesses the extinction of the *assignats*, by the

complete sale of the national lands, must terminate them; and that period, our past experience renders probable is not very remote. There was one general view, which to persons conversant with political economy, would, from the commencement of the operation, have appeared decisive. Either the *assignats* were to retain their value, or they were not: if they retained their value, none of the apprehended evils could arise: if they were discredited, every fall in their value was a new motive to their holders to exchange them for national lands. No man would retain depreciated paper who could acquire solid property. If a great portion of them should be thus employed, the value of those left in circulation must immediately rise, both because their number was diminished, and their security become more obvious. The failure, as a medium of circulation, must have improved them as an instrument of sale; and their success as an instrument of sale must in return have restored their utility as a medium of circulation. This action and reaction was inevitable, though the slight depreciation of the *assignats* had not made its effects very conspicuous in France.

So determined is the opposition of Mr. Burke to those measures of the Assembly which regard the finances of the Church, that even monastic institutions have in him found an advocate. Let us discuss the arguments which he urges for the preservation of these monuments of human madness. In support of an opinion so singular, he produces one *moral* and one *commercial* reason*:—"In monastic institutions was found a great power for the mechanism of politic benevolence; to destroy any power growing wild from the rank productive force of the human mind, is almost tantamount, in the moral world, to the destruction of the apparently active properties of bodies in the material." In one word, the spirit and the institutions of monachism were an instrument in the

* Burke, pp. 232—241.

hand of the legislator, which he ought to have converted to some public use. I confess myself so far to share the blindness of the National Assembly, that I cannot form the most remote conjecture concerning the various uses which "have suggested themselves to a contriving mind." But without expatiating on them, let us attempt to construct an answer to his argument on a broader basis. The moral powers by which a legislator moves the mind of man are his passions; and if the insane fanaticism which first peopled the deserts of Upper Egypt with anchorites, still existed in Europe, he must attempt the direction of a spirit which humanity forbids him to persecute, and wisdom to neglect. But monastic institutions have for ages survived the spirit which gave them birth; and it is not necessary for any legislature to destroy "that power growing wild out of the rank productive force of the human mind," from which monachism arose. Being, like all other furious and unnatural passions, in its nature transient, it languished in the discredit of miracles and the absence of persecution, and was gradually melted in the sunshine of tranquillity and opulence so long enjoyed by the Church. The soul which actuated monachism had fled: the skeleton only remained to deform society. The dens of fanaticism, where they did not become the recesses of sensuality, were converted into the styes of indolence and apathy. The moral power, therefore, no longer existed; for the spirit by which the legislator could alone have moved these bodies was no more. Nor had any new spirit succeeded which might be an instrument in the hands of legislative skill. These short-lived phrenzies leave behind them an inert product, in the same manner as, when the fury and splendour of volcanic eruption is past for ages, there still remains a mass of *lava* to encumber the soil, and deform the aspect of the earth.*

* It is urged by Mr. Burke, as a species of incidental defence of monachism, that there are many modes of industry, from which

The sale of the monastic estates is also questioned by Mr. Burke on commercial principles. The sum of his reasoning may be thus expressed:—The surplus product of the earth forms the income of the landed proprietor; that surplus the expenditure of some one must disperse; and of what import is it to society, whether it be circulated by the expense of one landholder, or of a society of monks? A very simple statement furnishes an unanswerable reply to this defence. The wealth of society is its stock of productive labour. There must, it is true, be unproductive consumers, but, the fewer their number, the greater (all things else being the same) must be the opulence of a state. The possession of an estate by a society of monks establishes, let us suppose forty, unproductive consumers: the possession of the same estate by a single landholder only necessarily produces one. It is therefore evident that there is forty times the quantity of labour subtracted from the public stock, in the first case, than there is in the second. If it be objected that the domestics of a landholder are unproductive, let it be remarked that a monastery has its servants; and that those of a lay proprietor are not

benevolence would rather rescue men than from monastic quiet. This must be allowed, in one view, to be true. But, though the laws *must permit* the natural progress which produces this species of labour, does it follow, that they ought to *create* monastic seclusion? Is the existence of one source of misery a reason for opening another? Because noxious drudgery must be *tolerated*, are we to *sanction* compulsory inutility? Instances of similar bad reasoning from what society *must suffer* to what she *ought to enact*, occur in other parts of Mr. Burke's production. We in England, he says, do not think 10,000*l.* a year worse in the hands of a bishop than in those of a baronet or a 'squire. Excessive inequality is in both cases an enormous evil. The laws must *permit* property to grow as the course of things effect it: but ought they to add a new factitious evil to this natural and irremediable one? They cannot avoid inequality in the income of *property*, because they must permit property to distribute itself: but they can remedy excessive inequalities in the income of *office*, because the income and the office are their creatures.

professionally and perpetually unproductive, as many of them become farmers and artisans, and that, above all, many of them are married. Nothing then can appear, on plain commercial views, more evident than the distinction between lay and monkish landholders. It is surely unnecessary to appeal to the motives which have every where produced statutes of mortmain, the neglect in which the land of ecclesiastical corporations is suffered to remain, and the infinite utility which arises from changes of property in land. The face of those countries where the transfers have been most rapid, will sufficiently prove their benefit. Purchasers seldom adventure without fortune; and the novelty of their acquisition inspires them with the ardour of improvement.

No doubt can be entertained that the estates possessed by the Church will increase immensely in their value. It is vain to say that they will be transferred to Stock-jobbers. Situations, not names, are to be considered in human affairs. He that has once tasted the indolence and authority of a landholder, will with difficulty return to the comparative servility and drudgery of a monied capitalist. But should the usurious habits of the immediate purchaser be inveterate, his son will imbibe other sentiments from his birth. The heir of the stock-jobbing Alpheus may acquire as perfectly the habits of an active improver of his patrimonial estate, as the children of Cincinnatus or Cato.

To aid the feebleness of these arguments, Mr. Burke has brought forward a panegyrical enumeration of the objects on which monastic revenue is expended. On this masterpiece of fascinating and magnificent eloquence it is impossible to be too lavish of praise. It would have been quoted by Quintilian as a splendid model of rhetorical common-place. But criticism is not our object; and all that the display of such powers of oratory can on such a subject suggest, is embodied

in a sentiment which might perhaps have served as a characteristic motto to Mr. Burke's production: —

Addidit *invalidæ* robur Facundia *causæ*.

SECTION III.

POPULAR EXCESSES WHICH ATTENDED THE REVOLUTION.

THAT no great revolutions can be accomplished without excesses and miseries at which humanity revolts, is a truth which cannot be denied. This unfortunately is true in a peculiar manner of those Revolutions, which, like that of France, are strictly popular. Where the people are led by a faction, its leaders find no difficulty in the re-establishment of that order, which must be the object of their wishes, because it is the sole security of their power. But when a general movement of the popular mind levels a despotism with the ground, it is far less easy to restrain excess. There is more resentment to satiate and less authority to control. The passion which produced an effect so tremendous, is too violent to subside in a moment into serenity and submission.

The attempt to punish the spirit that actuates a people, if it were just, would be vain, and if it were possible, would be cruel. No remedies are therefore left but the progress of instruction, — the force of persuasion, — the mild authority of opinion: and these though infallible are of slow operation. In the interval which elapses before a calm succeeds the boisterous moments of a revolution, it is vain to expect that a people inured to barbarism by their oppressors, and which has ages of oppression to avenge, will be punctiliously generous in their triumph, nicely discriminative in their vengeance,

or cautiously mild in their mode of retaliation. "They will break their chains on the heads of their oppressors." *

Such was the state of France; and such were the obvious causes of scenes which the friends of freedom deplore as tarnishing her triumphs. They feel these evils as men of humanity: but they will not bestow this name on that womanish sensibility, towards which, even in the still intercourse of private life, love is not unmingled with indulgence. The only humanity which, in the great affairs of men, claims their respect, is that manly and expanded sentiment, which fixes its steady eye on the means of general happiness. The sensibility which shrinks at present evil, without extending its view to future good, is not a virtue; for it is not a quality beneficial to mankind. It would arrest the arm of a surgeon in amputating a gangrened limb, or the hand of a judge in signing the sentence of a parricide. I do not say (God forbid!) that a crime may be committed for the attainment even of a good end: such a doctrine would shake morals to their centre. The man who would erect freedom on the ruins of morals neither understands nor loves either. But the case of the French Revolutionists is totally different. Has any moralist ever pretended, that we are to decline the pursuit of a good which our duty prescribes to us, because we foresee that some partial and incidental evil would arise from it? But the number of the French leaders against whom such charges have been insinuated is so small, that, supposing (what I do not believe) its truth, it only proves that some corrupt and ambitious men will mix with all great bodies. The question with respect to the rest, is reducible to this:—Whether they were to abstain from establishing a free government, because they foresaw that it could not be effected without con-

* The eloquent expression of Mr. Curran in the Irish House of Commons.

fusion and temporary distress, or to be consoled for such calamities by the view of that happiness to which their labours were to give ultimate permanence and diffusion? A Minister is not conceived to be guilty of systematic immorality, because he balances the evils of the most just war with the advantages of that national security which is produced by the reputation of spirit and power:—neither ought the patriot, who balancing the evils of transient anarchy against the inestimable good of established liberty, finds the last preponderate in the scale.

Such, in fact, has ever been the reasoning of the leaders in those insurrections which have preserved the remnant of freedom that still exists among mankind. Holland, England, and America, must have reasoned thus; and the different portions of liberty which they enjoy, have been purchased by the endurance of far greater calamities than have been suffered by France. It is unnecessary to appeal to the wars which for almost a century afflicted the Low Countries: but it may not be so to remind England of the price she paid for the establishment of the principles of the Revolution. The disputed succession which arose from that event, produced a destructive civil war in Ireland, two rebellions in Scotland, and the consequent slaughter and banishment of thousands of citizens, with the widest confiscation of their properties;—not to mention the continental connections and the foreign wars into which it plunged us, and the necessity thus imposed upon us of maintaining a standing army, and accumulating an enormous public debt.*

The freedom of America was purchased by calamities still more inevitable. The authors of it must

* Yet this was only the combat of reason and freedom against one prejudice,— that of hereditary right; whereas the French Revolution is, as has been sublimely said by the Bishop of Autun, "Le premier combat qui se soit jamais livré entre tous les Principes et toutes les Erreurs!"

have foreseen them; for they were not contingent or remote, but ready in a moment to burst on their heads. Their case is most similar to that of France, and best answers one of Mr. Burke's most triumphant arguments. They enjoyed *some* liberty, which their oppressors did not attack; and the object for which they resisted, was conceded in the progress of the war: but like France, after the concessions of her King, they refused to acquiesce in an imperfect liberty, when a more perfect one was within their reach. They pursued what Mr. Burke,—whatever were then his sentiments,—on his present system, must reprobate as a speculative and ideal good. They sought their beloved independence through new calamities, and the prolonged horrors of civil war. Their resistance, from that moment, "was against concession; and their blows were aimed at a hand holding forth immunity and favours." Events have indeed justified that noble resistance: America has emerged from her struggle into tranquillity and freedom,—into affluence and credit; and the authors of her Constitution have constructed a great permanent experimental answer to the sophisms and declamations of the detractors of liberty.

But what proportion did the price she paid for so great blessing bear to the transient misfortunes which have afflicted France? The extravagance of the comparison shocks every unprejudiced mind. No series of events in history have probably been more widely, malignantly, and systematically exaggerated than the French commotions. An enraged, numerous, and opulent body of exiles, dispersed over Europe, have possessed themselves of every venal press, and filled the public ear with a perpetual buzz of the crimes and horrors that were acting in France. Instead of entering on a minute scrutiny, of which the importance would neither expiate the tediousness, nor reward the toil, let us content ourselves with opposing one general fact to this host of falsehoods:—*no com-*

mercial house of importance has failed in France since the Revolution! How is this to be reconciled with the tales that have been circulated? As well might the transfers of the Royal Exchange be quietly executed in the ferocious anarchy of Gondar, and the peaceful opulence of Lombard Street flourish amidst hordes of Galla and Agows.* Commerce, which shrinks from the breath of civil confusion, has resisted this tempest; and a mighty Revolution has been accomplished with less commercial derangement than could arise from the bankruptcy of a second-rate house in London or Amsterdam. The manufacturers of Lyons, the merchants of Bourdeaux and Marseilles, are silent amidst the lamentations of the Abbé Maury, M. de Calonne, and Mr. Burke. Happy is that people whose commerce flourishes in ledgers, while it is bewailed in orations; and remains untouched in calculation, while it expires in the pictures of eloquence. This unquestionable fact is, on such a subject, worth a thousand arguments, and to any mind qualified to judge, must expose in their true light those execrable fabrications, which have sounded such a "senseless yell" through Europe.

But let us admit for a moment their truth, and take as a specimen of the evils of the Revolution, the number of lives which have been lost in its progress. That no possibility of cavil may remain, let us surpass in an exaggerated estimate the utmost audacity of falsehood: let us make a statement, from which the most frontless hireling of M. de Calonne would shrink. Let us for a moment suppose, that in the course of the Revolution twenty thousand lives have been lost. On the comparison of even this loss with parallel events in history, is there any thing in it from which a manly and enlightened humanity will recoil? Compare it with the expenditure of blood by which in ordinary wars so many pernicious and ignoble objects

* Abyssinian tribes.—Ed.

are sought. Compare it with the blood spilt by England in the attempt to subjugate America: and if such be the guilt of the Revolutionists of France, for having, at the *hazard* of this evil, sought the establishment of freedom, what new name of obloquy shall be applied to the Minister of England, who with the *certainty* of a destruction so much greater, attempted the establishment of tyranny?

The illusion which prevents the effect of these comparisons, is not peculiar to Mr. Burke. The massacres of war, and the murders committed by the sword of justice, are disguised by the solemnities which invest them: but the wild justice of the people has a naked and undisguised horror. Its slightest motion awakens all our indignation: while murder and rapine, if arrayed in the gorgeous disguise of acts of state, may with impunity stalk abroad. We forget that the evils of anarchy must be short-lived, while those of despotism are fatally permanent.

Another illusion has, particularly in England, favoured the exaggeration of the exiles:—we judge of France by our own situation, instead of comparing her conduct with that of other nations in similar circumstances. With us "the times may be moderate, and therefore ought to be peaceable:"* but in France the times were not moderate, and could not be peaceable. Let us correct these illusions of *moral optics* which make near objects so disproportionately large. Let us place the scene of the French Revolution in a remote age, or in a distant nation, and then let us calmly ask our own minds, whether the most reasonable subject of wonder be not its unexampled mildness, and the small number of individuals crushed in the fall of so vast a pile.

Such are the general reflections suggested by the disorders of the French Revolution. Of these, the first in point of time, as well as of importance, was

* Junius.

the Parisian insurrection and the capture of the Bastille. The mode in which that memorable event is treated by Mr. Burke, is worthy of notice. It occupies no conspicuous place in his work; it is only obscurely and contemptuously hinted at as one of those examples of successful revolt, which have fostered a mutinous spirit in the soldiery. "They have not forgot the taking of the King's castles in Paris and Marseilles. That they murdered with impunity in both places the governors, has not escaped their minds." * Such is the courtly circumlocution by which Mr. Burke designates the Bastille — "*the King's castle at Paris!*"; such is the ignominious language in which he speaks of the summary justice executed on the titled ruffian who was its governor; and such is the apparent art with which he has thrown into the back-ground invective and asperity, that, had they been prominent, would have provoked the indignation of mankind! "Je sais," says Mounier, in the language of that frigid and scanty approbation that is extorted from an enemy, "qu'il est des circonstances qui legitiment l'insurrection, et je mets dans ce nombre celles qui ont causé le siège de la Bastille." †

But the admiration of Europe and of posterity, is not to be estimated by the penurious applause of M. Mounier, nor repressed by the insidious hostility of Mr. Burke. It will correspond to the splendour of an insurrection, as much ennobled by heroism as it was justified by necessity, in which the citizens of Paris, — the unwarlike inhabitants of a voluptuous capital, — listening to no voice but that of the danger which menaced their representatives, their families, and their country, and animated, instead of awed, by the host of disciplined mercenaries which invested them on every side, attacked with a gallantry and success equally incredible, a fortress formidable from its strength, and tremendous from its destination, and

* Burke, p. 307. † Exposé, &c., p. 24.

changed the destiny of France. To palliate or excuse such a revolt, would be abject treachery to its principles. It was a case in which revolt was the dictate of virtue, and the path of duty; and in which submission would have been the most dastardly baseness, and the foulest crime. It was an action not to be excused, but applauded, — not to be pardoned, but admired. I shall not therefore descend to vindicate acts of heroism, which history will teach the remotest posterity to revere, and of which the recital is destined to kindle in unborn millions the holy enthusiasm of freedom.

Commotions of another description followed, partly arising from the general causes before stated, and partly from others of more limited and local operation. The peasantry of the provinces, buried for so many ages in the darkness of servitude, saw but indistinctly and confusedly, in the first dawn of liberty, the boundaries of their duties and their rights. It was no wonder that they should little understand that freedom which so long had been remote from their views. The name conveyed to their ear a right to reject all restraint, to gratify every resentment, and to attack all property. Ruffians, mingling with the deluded peasants, in hopes of booty, inflamed their ignorance and prejudices, by forged authorities from the King and the Assembly for their licentiousness. Many country houses were burnt; and some obnoxious persons were assassinated: but one may without excessive scepticism doubt, whether they had been the mildest masters whose *châteaux* had undergone that fate; and the peasants had to avenge those silent grinding oppressions which formed almost the only intercourse of the rich with the indigent, and which, though less flagrant than those of Government, were perhaps productive of more intolerable and diffused misery.

But whatever was the demerit of these excesses, they can by no process of reasoning be made impu-

table to the National Assembly, or the leaders of the Revolution. In what manner were they to repress them? If they exerted against them their own authority with rigour, they must have provoked a civil war: if they invigorated the police and tribunals of the deposed government, — besides incurring the hazard of the same calamity, — they put arms into the hands of their enemies. Placed in this dilemma, they were compelled to expect a slow remedy from the returning serenity of the public mind, and from the progress of the new government towards consistence and vigour.* That the conduct of the populace of Paris towards them should not have been the most decorous and circumspect, — that it should have been frequently irregular and tumultuous, was, in the nature of things, inevitable. But the horrible picture which Mr. Burke has drawn of that "stern necessity" under which this "captive" Assembly votes, is neither justified by this concession, nor by the state of facts. It is the overcharged colouring of a fervid imagination. Those to whom he alludes as driven away by assassins, — MM. Lally and Mounier, — might, surely, have remained with perfect safety in an Assembly in which such furious invectives are daily bellowed forth with impunity against the popular leaders. No man will deny, that that member of the minority enjoyed liberty of speech in its utmost plenitude, who called M. Mirabeau "*le plus vil de tous les assassins.*" "The terrors of the lamp-post and bayonet" have hitherto been visionary. Popular fury has hitherto spared the

* If this statement be candid and exact, what shall we think of the language of Mr. Burke, when he speaks of the Assembly as "*authorising* treasons, robberies, rapes, assassinations, slaughters, and burnings, throughout all their harassed land." (p. 58.) In another place (p. 200.) he connects the legislative extinction of the Order of Nobles with the popular excesses committed against individual noblemen, to load the Assembly with the accumulated obloquy; — a mode of proceeding more remarkable for controversial dexterity than for candour.

most furious declaimers of Aristocracy; and the only "decree," so far as I can discern, which has even been *pretended* to have been materially influenced by the populace, is that respecting the prerogatives of war and peace. That tumult has frequently derogated from the dignity which ought to distinguish the deliberations of a legislative assembly, is not to be denied. But that their debates have been tumultuous, is of little importance, if their decisions have been independent. Even in this question of war and peace, "the highest bidder at the auction of popularity" * did not succeed. The scheme of M. Mirabeau, with few amendments, prevailed, while the more "splendidly popular" propositions, which vested in the legislature alone the prerogative of war and peace, were rejected.

We are now conducted by the course of these strictures to the excesses committed at Versailles on the 5th and 6th of October, 1789. After the most careful perusal of the voluminous evidence before the Châtelet, of the controversial pamphlets of MM. d'Orleans and Mounier, and of the official report of M. Chabroud to the Assembly, the details of the affair seem to me so much involved in obscurity and contradiction, that they afford little on which a candid mind can with confidence pronounce. They afford, indeed, to frivolous and puerile adversaries the means of convicting Mr. Burke of some minute errors. M. Miomandre, the sentinel at the Queen's gate, it is true, survives; but it is no less true, that he was left for dead by his assassins. On the comparison of evidence it seems probable, that the Queen's chamber was not broken into, — "that the asylum of beauty and Majesty was not profaned." † But these slight correc-

* Burke, p. 353.

† The expression of M. Chabroud. Five witnesses assert that the ruffians did not break into the Queen's chamber. Two give the account followed by Mr. Burke, and to give this preponderance its due force, let it be recollected, that the whole proceedings be-

tions palliate little the atrocity, and alter not in the least the general complexion, of these flagitious scenes.

The most important question which the subject presents is, whether the Parisian populace were the instruments of conspirators, or whether their fatal march to Versailles was a spontaneous movement, produced by real or chimerical apprehensions of plots against their freedom. I confess that I incline to the latter opinion. Natural causes seem to me adequate to account for the movement. A scarcity of provision is not denied to have existed in Paris. The dinner of the body-guards might surely have provoked the people of a more tranquil city. The maledictions poured forth against the National Assembly, the insults offered to the patriotic cockade, the obnoxious ardour of loyalty displayed on that occasion, might have awakened even the jealousy of a people whose ardour had been sated by the long enjoyment, and whose alarms had been quieted by the secure possession, of liberty. The escape of the King would be the infallible signal of civil war: the exposed situation of the Royal residence was therefore a source of perpetual alarm. These causes, operating on that credulous jealousy which is the malady of the public mind in times of civil confusion, seeing hostility and conspiracy on every side, would seem sufficient ones. The apprehensions of the people in such a period torture the most innocent and frivolous accidents into proofs of sanguinary plots:—witness the *war of conspiracies* carried on by the contending factions in the reign of Charles the Second. The participation of Queen Mary in Babington's plot against Elizabeth, is still the subject of controversy. We, at the present day, dispute about the nature of the connection which subsisted between Charles the First and the Catholic

fore the Châtelet were *ex parte*. See Procédure Criminelle fait au Châtelet de Paris, &c., 1790.

insurgents of Ireland. It has occupied the labour of a century to separate truth from falsehood in the Rye-house Plot,—the views of the leaders from the schemes of the inferior conspirators,—and to discover that Russel and Sydney had, indeed, conspired a revolt, but that the underlings alone had plotted the assassination of the King.

It may indeed be said, that ambitious leaders availed themselves of the inflamed state of public feeling,—that by false rumours, and exaggerated truths, they stimulated the revenge, and increased the fears of the populace,—that their emissaries, mixing with the mob, and concealed by its confusion, were to execute their flagitious purposes, and fanatics, as usual, were the dupes of hypocrites. Such are the accusations which have been made against MM. d'Orleans and Mirabeau. The defence of profligate ambition is not imposed on the admirers of the French Revolution; and to become the advocate of individuals were to forget the dignity of a discussion that regards the rights and interests of an emancipated nation. Of their guilt, however, I will be bold to say no evidence was collected, by the malignant activity of an avowedly hostile tribunal, which, for a moment, would have suspended their acquittal by an English jury. It will be no mean testimony to the innocence of M. Mirabeau, that an opponent, not the mildest in his enmity, nor the most candid in his judgment, confessed, that he saw no serious ground of accusation against him.*

The project is attributed to them, of intimidating the King into a flight, that there might be a pretext for elevating the Duke of Orleans to the office of Regent. But the King could have had no rational hopes of escaping†; for he must have traversed 200 miles

* Discours de M. l'Abbé Maury dans l'Assemblée Nationale, 1 Octobre, 1790.

† The circumstances of his late attempt [the flight to Varennes. Ed.] sanction this reasoning.

of a country guarded by a people in arms, before he could reach the nearest frontier of the kingdom. The object was too absurd to be pursued by conspirators, to whom talent and sagacity have not been denied by their enemies. That the popular leaders in France did, indeed, desire to fix the Royal residence at Paris, it is impossible to doubt: the name, the person, and the authority of the King, would have been most formidable weapons in the hands of their adversaries. The peace of their country, — the stability of their freedom, called on them to use every measure that could prevent their enemies from getting possession of that "Royal Figure." The name of the King would have sanctioned foreign powers in supporting the aristocracy. Their interposition, which *now* would be hostility against the King and kingdom, would *then* have been only regarded as aid against rebellion. Against all these dreadful consequences there seemed only one remedy, — the residence of the King at Paris. Whether that residence is to be called a "captivity," or any other harsh name, I will not hesitate to affirm, that the Parliament of England would have merited the gratitude of their country, and of posterity, by a similar prevention of the escape of Charles I. from London. Fortunate would it have been for England if the person of James II. had been retained while his authority was limited. She would then have been circumstanced as France is now. The march to Versailles seems to have been the spontaneous movement of an alarmed populace. Their views, and the suggestions of their leaders, were probably bounded by procuring the King to change his residence to Paris; but the collision of armed multitudes terminated in unforeseen excesses and execrable crimes.

In the eye of Mr. Burke, however, these crimes and excesses assume an aspect far more important than can be communicated to them by their own insulated guilt. They form, in his opinion, the crisis of a

revolution,—a far more important one than any mere change of government,—in which the sentiments and opinions that have formed the manners of the European nations are to perish. "The age of chivalry is gone, and the glory of Europe extinguished for ever." He follows this exclamation by an eloquent eulogium on chivalry, and by gloomy predictions of the future state of Europe, when the nation that has been so long accustomed to give her the tone in arts and manners is thus debased and corrupted. A caviller might remark that ages, much more near the meridian fervour of chivalry than ours, have witnessed a treatment of queens as little gallant and generous as that of the Parisian mob. He might remind Mr. Burke, that in the age and country of Sir Philip Sidney, a Queen of France, whom no blindness to accomplishment,—no malignity of detraction, can reduce to the level of Marie Antoinette, was by "a nation of men of honour and cavaliers," permitted to languish in captivity and expire on a scaffold; and he might add, that the manners of a country are more surely indicated by the systematic cruelty of a sovereign than by the licentious frenzy of a mob. He might remark, that the mild system of modern manners which survived the massacres with which fanaticism had for a century desolated, and almost barbarised Europe, might, perhaps, resist the shock of one day's excesses committed by a delirious populace. He might thus, perhaps, oppose specious and popular topics to the declamation of Mr. Burke.

But the subject itself is, to an enlarged thinker, fertile in reflections of a different nature. That system of manners which arose among the Gothic nations of Europe, and of which chivalry was more properly the effusion than the source, is without doubt one of the most peculiar and interesting appearances in human affairs. The moral causes which formed its character have not, perhaps, been hitherto investigated with the happiest success: but,—to confine ourselves

to the subject before us,—chivalry was certainly one of the most prominent of its features and most remarkable of its effects. Candour must confess, that this singular institution was not admirable only as the corrector of the ferocious ages in which it flourished; but that in contributing to polish and soften manners it paved the way for the diffusion of knowledge and the extension of commerce, which afterwards, in some measure, supplanted it. Society is inevitably progressive. Commerce has overthrown the "feudal and chivalrous system" under whose shade it first grew; while learning has subverted the superstition whose opulent endowments had first fostered it. Peculiar circumstances connected with the manners of chivalry favoured this admission of commerce and this growth of knowledge; while the sentiments peculiar to it, already enfeebled in the progress from ferocity and turbulence, were almost obliterated by tranquillity and refinement. Commerce and diffused knowledge have, in fact, so completely assumed the ascendant in polished nations, that it will be difficult to discover any relics of Gothic manners, but in a fantastic exterior, which has survived the generous illusions through which these manners once seemed splendid and seductive. Their *direct* influence has long ceased in Europe; but their *indirect* influence, through the medium of those causes which would not perhaps have existed but for the mildness which chivalry created in the midst of a barbarous age, still operates with increasing vigour. The manners of the middle age were, in the most singular sense, compulsory: enterprising benevolence was produced by general fierceness,—gallant courtesy by ferocious rudeness; and artificial gentleness resisted the torrent of natural barbarism. But a less incongruous system has succeeded, in which commerce, which unites men's interests, and knowledge, which excludes those prejudices that tend to embroil them, present a broader basis for the stability of civilised and beneficent manners.

Mr. Burke, indeed, forbodes the most fatal consequences to literature from events, which he supposes to have given a mortal blow to the spirit of chivalry. I have ever been protected from such apprehensions by my belief in a very simple truth,—"that diffused knowledge immortalises itself." A literature which is confined to a few, may be destroyed by the massacre of scholars and the conflagrations of libraries; but the diffused knowledge of the present day could only be annihilated by the extirpation of the civilised part of mankind.

Far from being hostile to letters, the French Revolution has contributed to serve their cause in a manner hitherto unexampled. The political and literary progress of nations has hitherto been simultaneous; the period of their eminence in arts has also been the era of their historical fame; and no example occurs in which their great political splendour has been subsequent to the Augustan age of a people. But in France, which is destined to refute every abject and arrogant doctrine that would limit the human powers, the ardour of a youthful literature has been infused into a nation tending to decline; and new arts are called forth when all seemed to have passed their zenith. She enjoyed one Augustan age, fostered by the favour of despotism: she seems about to witness another, created by the energy of freedom.

In the opinion of Mr. Burke, however, she is advancing by rapid strides to ignorance and barbarism.* "Already," he informs us, "there appears a poverty of conception, a coarseness and vulgarity in all the proceedings of the Assembly, and of all their instructors. Their liberty is not liberal. Their science is presumptuous ignorance. Their humanity is savage and brutal." To animadvert on this modest and courteous picture belongs not to the present subject: and *impressions* cannot be disputed, more especially

* Burke, p. 118.

when their grounds are not assigned. All that is left to us to do, is to declare opposite impressions with a confidence authorised by his example. The proceedings of the National Assembly of France appear to me to contain models of more splendid eloquence, and examples of more profound political research, than have been exhibited by any public body in modern times. I cannot therefore augur, from these proceedings, the downfall of philosophy, or the extinction of eloquence.

Thus various are the aspects which the French Revolution, not only in its influence on literature, but in its general tenor and spirit, presents to minds occupied by various opinions. To the eye of Mr. Burke, it exhibits nothing but a scene of horror: in his mind it inspires no emotion but abhorrence of its leaders, commiseration for their victims, and alarms at the influence of an event which menaces the subversion of the policy, the arts, and the manners of the civilised world. Minds who view it through another medium are filled by it with every sentiment of admiration and triumph, — of admiration due to splendid exertions of virtue, and of triumph inspired by widening prospects of happiness.

Nor ought it to be denied by the candour of philosophy, that events so great are never so unmixed as not to present a double aspect to the acuteness and exaggeration of contending parties. The same ardour of passion which produces patriotic and legislative heroism becomes the source of ferocious retaliation of visionary novelties, and of precipitate change. The attempt were hopeless to increase the fertility, without favouring the rank luxuriance of the soil. He that on such occasions expects unmixed good, ought to recollect, that the economy of nature has invariably determined the equal influence of high passions in giving birth to virtues and to crimes. The soil of Attica was observed to produce at once the most delicious fruits and the most virulent poisons. It was

thus with the human mind; and to the frequency of convulsions in the ancient commonwealths, they owe those examples of sanguinary tumult and virtuous heroism, which distinguish their history from the monotonous tranquillity of modern states. The passions of a nation cannot be kindled to the degree which renders it capable of great achievements, without involving the commission of violence and crime. The reforming ardour of a senate cannot be inflamed sufficiently to combat and overcome abuses, without hazarding the evils which arise from legislative temerity. Such are the immutable laws, which are more properly to be regarded as libels on our nature than as charges against the French Revolution. The impartial voice of History ought, doubtless, to record the blemishes as well as the glories of that great event: and to contrast the delineation of it which might have been given by the specious and temperate Toryism of Mr. Hume, with that which we have received from the repulsive and fanatical invectives of Mr. Burke, might still be amusing and instructive. Both these great men would be averse to the Revolution; but it would not be difficult to distinguish between the undisguised fury of an eloquent advocate, and the well-dissembled partiality of a philosophical judge. The passion of the latter would only *feel* the excesses which have dishonoured the Revolution: but the philosophy of the former would instruct him, that our sentiments, raised by such events so much above their ordinary level, become the source of guilt and heroism unknown before, — of sublime virtues and splendid crimes.

SECTION IV.

NEW CONSTITUTION OF FRANCE.*

A DISSERTATION approaching to completeness on the new Constitution of France would, in fact, be a vast system of political science. It would include a development of the principles that regulate every portion of government. So immense an attempt is little suited to our present limits. But some remarks on the prominent features of the French system are exacted by the nature of our vindication. They will consist chiefly of a defence of their grand theoretic principle, and their most important practical institution.

The principle which has actuated the legislators of France has been, "that the object of all legitimate government is the assertion and protection of the natural rights of man." They cannot indeed be absolved from some deviations † from it; — few, indeed, compared with those of any other body of whom history has preserved any record; but too many for their own glory, and for the happiness of the human race. This principle, however, is the basis of their edifice, and if it be false, the structure must fall to the ground. Against this principle, therefore, Mr. Burke has, with great judgment, directed his attack. Appeals to natural right are, according to him, inconsistent and preposterous. A complete abdication and sur-

* I cannot help exhorting those who desire to have accurate notions on the subject of this section, to peruse and study the delineation of the French constitution which with a correctness so admirable has been given by Mr. Christie. (Letters on the Revolution in France, London, 1791. ED.)

† I particularly allude to their colonial policy; but I think it candid to say, that I see in their full force the difficulties of that embarrassing business.

render of all natural right is made by man in entering into society; and the only rights which he retains are created by the compact which holds together the society of which he is member. This doctrine he thus explicitly asserts: — "The moment," says he, "you abate any thing from the full rights of men each to govern himself, and suffer any artificial positive limitation on those rights, from that moment the whole organisation of society becomes a consideration of convenience." "How can any man claim under the conventions of civil society rights which do not so much as suppose its existence, — which are absolutely repugnant to it?"* To examine this doctrine, therefore, is of fundamental importance. To this effect it is not necessary to enter into any elaborate research into the metaphysical principles of politics and ethics. A full discussion of the subject would indeed demand such an investigation†: — the origin of natural rights must have been illustrated, and even their existence proved against some theorists. But such an inquiry would have been inconsistent with the nature of a publication, the object of which is to enforce conviction on the people. We are besides absolved from the necessity of it in a controversy with Mr. Burke, who himself recognises, in the most ample form, the existence of those natural rights.

Granting their existence, the discussion is short. The only criterion by which we can estimate the portion of natural right surrendered by man on entering

* Burke, pp. 88—89. To the same purpose is his whole reasoning from p. 86. to p. 92.

† It might, perhaps, not be difficult to prove, that far from a *surrender*, there is not even a *diminution* of the natural rights of men by their entrance into society. The existence of some union, with greater or less permanence and perfection of public force for public protection (the essence of government), might be demonstrated to be coeval and co-extensive with man. All theories, therefore, which suppose the actual existence of any state antecedent to the social, might be convicted of futility and falsehood.

into society is the *object* of the surrender. If more is claimed than that object exacts, what was an *object* becomes a *pretext*. Now the object for which a man resigns any portion of his natural sovereignty over his own actions is, that he may be protected from the abuse of the same dominion in other men. Nothing, therefore, can be more fallacious than to pretend, that we are precluded in the social state from *any* appeal to natural right.* It remains in its full integrity and vigour, if we except that portion of it which men have thus mutually agreed to sacrifice. Whatever, under *pretence* of that surrender, is assumed beyond what that object rigorously prescribes, is an usurpation supported by sophistry, — a despotism varnished by illusion. It follows that the surrender of right must be equal in all the members of society, as the object is to all precisely the same. In effect, society, instead of destroying, realises and substantiates equa-

* " Trouver une forme d'association qui défende et protège de toute la force commune la personne et les biens de chaque associé, et par laquelle chacun, s'unissant à tous, n'obéisse pourtant qu'à lui-même et reste aussi libre qu'auparavant ?" Rousseau, Contrat Social, livre i. chap. vi. I am not intimidated from quoting Rousseau by the derision of Mr. Burke. Mr. Hume's report of his literary secrets seems most unfaithful. The sensibility, the pride, the fervour of his character are pledges of his sincerity; and had he even commenced with the fabrication of paradoxes, for attracting attention, it would betray great ignorance of human nature to suppose, that in the ardour of contest, and the glory of success, he must not have become the dupe of his own illusions, and a convert to his own imposture. It is, indeed, not improbable, that when rallied on the eccentricity of his paradoxes, he might, in a moment of gay effusion, have spoken of them as a sport of fancy, and an experiment on the credulity of mankind. The Scottish philosopher, inaccessible to enthusiasm, and little susceptible of those depressions and elevations — those agonies and raptures, so familiar to the warm and wayward heart of Rousseau, neither knew the sport into which he could be relaxed by gaiety, nor the ardour into which he could be exalted by passion. Mr. Burke, whose temperament is so different, might have experimentally known such variation, and learnt better to discriminate between effusion and deliberate opinion.

lity. In a state of nature, the equality of right is an impotent theory, which inequalities of strength and skill every moment violate. As neither natural equality nor the equality of the sum of right surrendered by every individual is contested, it cannot be denied that the remnant spared by the social compact must be equal also. Civil inequalities, or, more correctly, civil distinction, must exist in the social body, because it must possess organs destined for different functions: but political inequality is equally inconsistent with the principles of natural right and the object of civil institution.*

Men, therefore, only retain a right to a share in their own government, because the exercise of the right by one man is not inconsistent with its possession by another. This doctrine is not more abstractedly evident than it is practically important. The slightest deviation from it legitimatises every tyranny. If the only criterion of governments be the supposed convention which forms them, all are equally legitimate; for the only interpreter of the convention is the usage of the government, which is thus preposterously made its own standard. Governors must, indeed, abide by the maxims of the constitution they administer; but what that constitution is must be on this system immaterial. The King of France is not permitted to put out the eyes of the Princes of the Blood; nor the Sophi of Persia to have recourse to *lettres de cachet.* They must tyrannise by precedent, and oppress in reverent imitation of the models consecrated by the usage of despotic predecessors. But if they adhere to these, there is no remedy for the oppressed, since an appeal to the rights of nature were treason against the principles of the social union. If,

* "But as to the share of power, authority, and direction which each individual ought to have in the management of a state, that I must deny to be among the direct original rights of man in civil society." This is evidently denying the existence of what has been called *political*, in contradistinction to *civil* liberty.

indeed, any offence against precedent, in the kind or degree of oppression, be committed, this theory may (though most inconsistently) permit resistance. But as long as the forms of any government are preserved, it possesses, in the view of justice (whatever be its nature) equal claims to obedience. This inference is irresistible; and it is thus evident, that the doctrines of Mr. Burke are doubly refuted by the fallacy of the logic which supports them, and the absurdity of the conclusions to which they lead.

They are also virtually contradicted by the laws of all nations. Were his opinions true, the language of laws should be *permissive*, not *restrictive*. Had men surrendered all their rights into the hands of the magistrate, the object of laws should have been to announce the portion he was pleased to return them, not the part of which he is compelled to deprive them. The criminal code of all nations consists of prohibitions; and whatever is not prohibited by the law, men every where conceive themselves entitled to do with impunity. They act on the principle which this language of law teaches them, that they retain rights which no power can impair or infringe,—which are not the boon of society, but the attribute of their nature. The rights of magistrates and public officers are truly the creatures of society: they, therefore, are guided not by what the law does not prohibit, but by what it authorises or enjoins. Were the rights of citizens equally created by social institution, the language of the civil code would be similar, and the obedience of subjects would have the same limits.

This doctrine, thus false in its principles, absurd in its conclusions, and contradicted by the avowed sense of mankind, is, lastly, even abandoned by Mr. Burke himself. He is betrayed into a confession directly repugnant to his general principle:—"Whatever each man can do without trespassing on others, he has a right to do for himself; and he has a right to

a fair portion of all that society, with all its combinations of skill and force, can do for him." Either this right is universal, or it is not:—if it be universal, it cannot be the offspring of a convention; for conventions must be as various as forms of government, and there are many of them which do not recognise this right, nor place man in this condition of just equality. All governments, for example, which tolerate slavery neglect this right; for a slave is neither entitled to the fruits of his own industry, nor to any portion of what the combined force and skill of society produce. If it be not universal, it is no right at all; and can only be called a *privilege* accorded by some governments, and withheld by others. I can discern no mode of escaping from this dilemma, but the avowal that these civil claims are the remnant of those "metaphysic rights" which Mr. Burke holds in such abhorrence; but which it seems the more natural object of society to protect than destroy.

But it may be urged, that though all appeals to natural rights be not precluded by the social compact, and though their integrity and perfection in the civil state may *theoretically* be admitted, yet as men unquestionably may refrain from the exercise of their rights, if they think their exertion unwise, and as government is not a scientific subtlety, but a *practical* expedient for general good, all recourse to these elaborate abstractions is frivolous and futile; and that the grand question is not the source, but the tendency of government,—not a question of right, but a consideration of expediency. Political forms, it may be added, are only the *means* of ensuring a certain portion of public felicity: if the *end* be confessedly obtained, all discussion of the theoretical aptitude of the *means* to produce it is nugatory and redundant.

To this I answer, first, that such reasoning proves too much, and that, taken in its proper extent, it impeaches the great system of morals, of which political principles form only a part. All morality is, no doubt,

founded on a broad and general expediency; and the sentiment—

"Ipsa utilitas justi prope mater et æqui," *

may be safely adopted, without the reserve dictated by the timid and inconstant philosophy of the poet. Justice is expediency, but it is expediency speaking by general maxims, into which reason has consecrated the experience of mankind. Every general principle of justice is demonstrably expedient; and it is this utility alone that confers on it a moral obligation. But it would be fatal to the existence of morality, if the utility of every particular act were to be the subject of deliberation in the mind of every moral agent. Political principles are only moral ones adapted to the civil union of men. When I assert that a man has a right to life, liberty, &c. I only mean to enunciate a moral maxim founded on the general interest, which prohibits any attack on these possessions. In this primary and radical sense, all rights, natural as well as civil, arise from expediency. But the moment the moral edifice is reared, its basis is hid from the eye for ever. The moment these maxims, which are founded on an utility that is paramount and perpetual, are embodied and consecrated, they cease to yield to partial and subordinate expediency. It then becomes the perfection of virtue to consider, not whether an action be useful, but whether it be right.

The same necessity for the substitution of general maxims exists in politics as in morals. Those precise and inflexible principles, which yield neither to the seductions of passion, nor to the suggestions of interest, ought to be the guide of public as well as private morals. "Acting according to the natural rights of men," is only another expression for acting according to those general maxims of social morals which pre-

* Horace, lib. ii. Lat. 3. — Ed.

scribe what is right and fit in human intercourse. We have proved that the social compact does not alter these maxims, or destroy these rights; and it incontestably follows, from the same principles which guide all morality, that no expediency can justify their infraction.

The inflexibility of general principles is, indeed, perhaps more necessary in political morals than in any other class of actions. If the consideration of expediency be admitted, the question recurs,—Who are to judge of it? The appeal is never made to the *many* whose interest is at stake, but to the *few*, whose interest is linked to the perpetuity of oppression and abuse. Surely that judge ought to be bound down by the strictest rules, who is undeniably interested in the decision: and he would scarcely be esteemed a wise legislator, who should vest in the next heir to a lunatic a discretionary power to judge of his sanity. Far more necessary, then, is obedience to general principles, and maintenance of natural rights, in politics than in the morality of common life. The moment that the slightest infraction of these rights is permitted through motives of *convenience*, the bulwark of all upright politics is lost. If a small convenience will justify a little infraction, a greater will expiate a bolder violation: the Rubicon is past. Tyrants never seek in vain for sophists: pretences are multiplied without difficulty and without end. Nothing, therefore, but an inflexible adherence to the principles of general right can preserve the purity, consistency, and stability of a free state.

If we have thus successfully vindicated the first theoretical principle of French legislation, the doctrine of an absolute surrender of natural rights by civil and social man, has been shown to be deduced from inadequate premises,—to conduct to absurd conclusions, to sanctify the most atrocious despotism, to outrage the avowed convictions of men, and, finally, to be abandoned, as hopelessly untenable by its own author. The

existence and perfection of these rights being proved, the first duty of lawgivers and magistrates is to assert and protect them. Most wisely and auspiciously then did France commence her regenerating labours with a solemn declaration of these sacred, inalienable, and imprescriptible rights,—a declaration which must be to the citizen the monitor of his duties, as well as the oracle of his rights, and by a perpetual recurrence to which the deviations of the magistrate will be checked, the tendency of power to abuse corrected, and every political proposition (being compared with the end of society) correctly and dispassionately estimated. To the juvenile vigour of reason and freedom in the New World,—where the human mind was unincumbered with that vast mass of usage and prejudice, which so many ages of ignorance had accumulated, to load and deform society in Europe,—France owed this, among other lessons. Perhaps the only expedient that can be devised by human wisdom to keep alive public vigilance against the usurpation of partial interests, is that of perpetually presenting the general right and the general interest to the public eye. Such a principle has been the Polar Star, by which the National Assembly has hitherto navigated the vessel of the state, amid so many tempests howling destruction around it.

There remains a much more extensive and complicated inquiry, in the consideration of their political institutions. As it is impossible to examine all, we must limit our remarks to the most important. To speak then generally of their Constitution, it is a preliminary remark, that the application of the word "democracy" to it is fallacious and illusive. If that word, indeed, be taken in its etymological sense, as the "power of the people," it is a democracy; and so are all legitimate governments. But if it be taken in its historical sense, it is not so; for it does not resemble those governments which have been called democracies in ancient or modern times. In the ancient democracies there was neither representation nor divi-

sion of powers: *the rabble legislated, judged,* and *exercised every political authority.* I do not mean to deny that in Athens, of which history has transmitted to us the most authentic monuments, there did exist some feeble control. But it has been well remarked, that a multitude, if it was composed of Newtons, must be a mob: their will must be equally unwise, unjust, and irresistible. The authority of a corrupt and tumultuous populace has indeed by the best writers of antiquity been regarded rather as an ochlocracy than a democracy,—as the despotism of the rabble, not the dominion of the people. It is a degenerate democracy: it is a febrile paroxysm of the social body which must speedily terminate in convalescence or dissolution. The new Constitution of France is almost directly the reverse of these forms. It vests the legislative authority in the representatives of the people, the executive in an hereditary First Magistrate, and the judicial in judges, periodically elected, and unconnected either with the legislature or with the Executive Magistrate. To confound such a constitution with the democracies of antiquity, for the purpose of quoting historical and experimental evidence against it, is to recur to the most paltry and shallow arts of sophistry.

In discussing it, the first question that arises regards the mode of constituting the legislature; the first division of which, relating to the right of suffrage, is of primary importance. Here I most cordially agree with Mr. Burke* in reprobating the impotent and preposterous qualification by which the Assembly has disfranchised every citizen who does not pay a direct contribution equivalent to the price of three days' labour. Nothing can be more evident than its inefficacy for any purpose but the display of inconsistency, and the violation of justice. These remarks were made at the moment of the discussion;

* Burke, p. 257.

and the plan* was combated in the Assembly with all the force of reason and eloquence by the most conspicuous leaders of the popular party,—MM. Mirabeau, Target, and Petion, more particularly distinguishing themselves by their opposition. But the more timid and prejudiced members of it shrunk from so bold an innovation in political systems as justice. They fluctuated between their principles and their prejudices; and the struggle terminated in an illusive compromise,—the constant resource of feeble and temporising characters. They were content that little practical evil should in fact be produced; while their views were not sufficiently enlarged to perceive, that the inviolability of principles is the palladium of virtue and of freedom. Such members do not, indeed, form the majority of their own party; but the aristocratic minority, anxious for whatever might dishonour or embarrass the Assembly, eagerly coalesced with them, and stained the infant Constitution with this absurd usurpation.

An enlightened and respectable antagonist of Mr. Burke has attempted the defence of this measure. In a Letter to Earl Stanhope, it is contended, that the spirit of this regulation accords exactly with the principles of natural justice, because, even in an unsocial state, the pauper has a claim only on charity, and he who produces nothing has no right to share in the regulation of what is produced by the industry of others. But whatever be the justice of disfranchising the unproductive poor, the argument is, in point of fact, totally misapplied. Domestic servants are excluded by the decree, though they subsist as evidently on the produce of their own labour as any other class; and to them therefore the argument of our acute and ingenious writer is totally inapplicable.† But it is

* See the Procès Verbaux of the 27th and 29th of October, 1789, and the Journal de Paris, No. 301., and Les Révolutions de Paris, No. 17. p. 73.

† It has been very justly remarked, that even with reference to

the consolation of the consistent friends of freedom, that this abuse must be short-lived: the spirit of reason and liberty, which has achieved such mighty victories, cannot long be resisted by this puny foe. The number of primary electors is at present so great, and the importance of their single votes so proportionally little, that their interest in resisting the extension of the right of suffrage is insignificantly small. Thus much have I spoken of the usurpation of the rights of suffrage, with the ardour of anxious affection, and with the freedom of liberal admiration. The moment is too serious for compliment; and I leave untouched to the partisans of despotism, their monopoly of blind and servile applause.*

I must avow, with the same frankness, equal disapprobation of the admission of territory and contribution as elements entering into the proportion of representation.† The representation of land or money is a monstrous relic of ancient prejudice: men only can be represented; and population alone ought to regulate the number of representatives which any district delegates.

taxation, all men have equal rights of election. For the man who is too poor to pay a direct contribution, still pays a tax in the increased price of his food and clothes. It is besides to be observed, that life and liberty are more sacred than property, and that the right of suffrage is the only shield that can guard them.

* "He who freely magnifies what has been nobly done, and fears not to declare as freely what might have been done better, gives you the best covenant of his fidelity. His highest praise is not flattery, and his plainest advice is praise." Areopagitica.

† Montesquieu, I think, mentions a federative republic in Lycia, where the proportion of representatives deputed by each state was in a *ratio* compounded of its population and its contribution. There might be some plausibility in this institution among confederated independent states; but it is grossly absurd in a commonwealth, which is vitally one. In such a state, the contribution of all being proportioned to their capacity, it is relatively equal; and if it can confer any political claims, they must be derived from equal rights.

The next consideration that presents itself is, the nature of those bodies into which the citizens of France are to be organised for the performance of their political functions. In this important part of the subject, Mr. Burke has committed some fundamental errors: it is more amply, more dexterously, and more correctly treated by M. de Calonne; of whose work this discussion forms the most interesting part. These assemblies are of four kinds: — Municipal, Primary, Electoral, and Administrative.

To the Municipalities belong the care of preserving the police, and collecting the revenue within their jurisdiction. An accurate idea of their nature and object may be formed by supposing the *country* of England uniformly divided, and governed, like its cities and towns, by magistracies of popular election.

The Primary Assemblies, the first elements of the commonwealth, are formed by all citizens, who pay a direct contribution, equal to the price of three days' labour, which may be averaged at half-a-crown sterling. Their functions are purely electoral. They send representatives, in the proportion of one to every hundred adult citizens, to the Assembly of the *Department* directly, and not through the medium of the District, as was originally proposed by the Constitutional Committee, and has been erroneously stated by Mr. Burke. They send, indeed, representatives to the Assembly of the District; but it is for the purpose of choosing the Administrators of such District, not the Electors of the Department. The Electoral Assemblies of the Departments elect the members of the legislature, the judges, the administrators, and the bishop of the Department. The Administrators are every where the organs and instruments of the executive power.

Against the arrangement of these Assemblies, many subtle and specious objections are urged, both by Mr. Burke and the exiled Minister of France. The first

and most formidable is, "the supposed tendency of it to dismember France into a body of confederated republics." To this there are several unanswerable replies. But before I state them, it is necessary to make one distinction: — these several bodies are, in a certain sense, independent, in what regards subordinate and interior regulation; but they are not independent in the sense which the objection supposes, — that of possessing a separate will from that of the nation, or influencing, but by their representatives, the general system of the state. Nay, it may be demonstrated, that the legislators of France have solicitously provided more elaborate precautions against this dismemberment than have been adopted by any recorded government.

The first circumstance which is adverse to it is the minuteness of the divided parts. They are too small to possess a separate force. As elements of the social order, as particles of a great political body, they are something; but, as insulated states, they would be impotent. Had France been separated into great masses, each might have been strong enough to claim a separate will; but, divided as she is, no body of citizens is conscious of sufficient strength to feel their sentiments of any importance, but as constituent parts of the general will. Survey the Primary, the Electoral, and the Administrative Assemblies, and nothing will be more evident than their importance in individuality. The Municipalities, surely, are not likely to arrogate independence. A 48,000th part of the kingdom has not energy sufficient for separate existence; nor can a hope arise in it of influencing, in a direct and dictatorial manner, the councils of a great state. Even the Electoral Assemblies of the Departments do not, as we shall afterwards show, possess force enough to become independent confederated republics.

Another circumstance, powerfully hostile to this

dismemberment, is the destruction of the ancient Provincial division of the kingdom. In no part of Mr. Burke's work have his arguments been chosen with such infelicity of selection as in what regards this subject. He has not only erred; but his error is the precise reverse of truth. He represents as the harbinger of discord, what is, in fact, the instrument of union. He mistakes the cement of the edifice for a source of instability and a principle of repulsion. France was, under the ancient government, an union of provinces, acquired at various times and on different conditions, and differing in constitution, laws, language, manners, privileges, jurisdiction, and revenue. It had the exterior of a simple monarchy, but it was in reality an aggregate of independent states. The monarch was in one place King of Navarre, in another Duke of Brittany, in a third Count of Provence, in a fourth Dauphin of Vienne. Under these various denominations he possessed, at least nominally, different degrees of power, and he certainly exercised it under different forms. The mass composed of these heterogeneous and discordant elements, was held together by the compressing force of despotism. When that compression was withdrawn, the provinces must have resumed their ancient independence, — perhaps in a form more absolute than as members of a federative republic. Every thing tended to inspire *provincial* and to extinguish *national* patriotism. The inhabitants of Brittany, or Guienne, felt themselves linked together by ancient habitudes, by congenial prejudices, by similar manners, by the relics of their constitution, and the common name of their country: but their character as members of the French Empire, could only remind them of long and ignominious subjection to a tyranny, of which they had only felt the strength in exaction, and blessed the lenity in neglect. These causes must have formed the provinces into independent republics; and the destruction of their provincial

existence was indispensable to the prevention of this dismemberment. It is impossible to deny, that men united by no previous habitude (whatever may be said of the policy of the union in other respects) are less qualified for that union of will and force, which produces an independent republic, than provincials, who were attracted by every circumstance towards local and partial interests, and from the common centre of the national system. Nothing could have been more inevitable than the independence of those great provinces, which had never been moulded into one empire; and we may boldly pronounce, in direct opposition to Mr. Burke, that the new division of the kingdom was the only expedient that could have prevented its dismemberment into a confederacy of sovereign republics.

The solicitous and elaborate division of powers, is another expedient of infallible operation, to preserve the unity of the body politic. The Municipalities are limited to minute and local administration; the Primary Assemblies solely to election; the Assemblies of the District to objects of administration and control of a superior class; and the Assemblies of the Departments possess functions purely electoral, exerting no authority legislative, administrative, or judicial.

But whatever danger might be apprehended of the assumption of power by these formidable Assemblies, they are biennially renewed; and their fugitive nature makes systematic usurpation hopeless. What power, indeed, can they possess of dictating to the National Assembly?* or what interest can the members of that Assembly have in obeying the mandates of those whose tenure of power is as fugitive and precarious as

* I do not mean that their voice will not be there respected: that would be to suppose the Legislature as insolently corrupt as that of a neighbouring nation. I only mean to assert, that they cannot possess such a power as will enable them to dictate instructions to their representatives as authoritatively as sovereigns do to their ambassadors; which is the idea of a confederated republic.

their own? The provincial Administrators have that amount of independence which the constitution demands; while the judges, who are elected for six years, must feel themselves independent of constituents, whom three elections may so radically and completely change. These circumstances, then, — the minuteness of the divisions, the dissolution of Provincial ties, the elaborate distribution of powers, and the fugitive constitution of the Electoral Assemblies, — seem to form an insuperable barrier against the assumption of such powers by any of the bodies into which France is organised, as would tend to produce the federal form.

The next objection to be considered is peculiar to Mr. Burke. The subordination of elections has been regarded by the admirers of the French lawgivers as a masterpiece of their legislative wisdom. It seemed as great an improvement on representative government, as representation itself was on pure democracy. No extent of territory is too great for a popular government thus organised; and as the Primary Assemblies may be divided to any degree of minuteness, the most perfect order is reconcilable with the widest diffusion of political right. Democracies were supposed by philosophers to be necessarily small, and therefore feeble, — to demand numerous assemblies, and to be therefore venal and tumultuous. Yet this great discovery, which gives force and order in so high a degree to popular governments, is condemned and derided by Mr. Burke. An immediate connection between the represented and the primary constituent, he considers as essential to the idea of representation. As the electors in the Primary Assemblies do not immediately elect their lawgivers, he regards their rights of suffrage as nominal and illusory.*

It will in the first instance be remarked, from the statement which has already been given, that

* Burke, pp. 270—272.

in stating three interposed elections between the Primary Electors and the Legislature, Mr. Burke has committed a most important error, in point of fact. The original plan of the Constitutional Committee was indeed agreeable to the statement of Mr. Burke:—the Primary Assemblies were to elect deputies to the District,—the District to the Department,—and the Department to the National Assembly. But this plan was represented as tending to introduce a vicious complexity into the system, and, by making the channel through which the national will passes into its public acts too circuitous, to enfeeble its energy under pretence of breaking its violence; and it was accordingly successfully combated. The series of three elections was still preserved for the choice of Departmental Administrators; but the Electoral Assemblies in the Departments, who are the immediate constituents of the Legislature, are directly chosen by the Primary Assemblies, in the proportion of one elector to every hundred active citizens.*

But,—to return to the general question, which is, perhaps, not much affected by these details,—I profess I see no reason why the right of election is not as susceptible of delegation as any other civil function,—why a citizen may not as well delegate the right of choosing lawgivers, as that of making laws. Such a gradation of elections, says Mr. Burke, ex-

* For a charge of such fundamental inaccuracy against Mr. Burke, the Public will most justly and naturally expect the highest evidence. See the Décret sur la nouvelle Division du Royaume, Art. 17., and the Procès Verbal of the Assembly for the 22d Dec. 1789. If this evidence should demand any collateral aid, the authority of M. de Calonne (which it is remarkable that Mr. Burke should have overlooked) corroborates it most amply. "On ordonne que chacune de ces Assemblées (Primaires) nommera un électeur à raison de 100 citoyens actifs." . . . "Ces cinquantes mille électeurs (des Départements) choisis de deux ans en deux ans par les Assemblées Primaires," p. 360. The Ex-Minister, indeed, is rarely to be detected in any departure from the solicitous accuracy of professional detail.

cludes responsibility and substantial election, since the primary electors neither can know nor bring to account the members of the Assembly. This argument has (considering the peculiar system of Mr. Burke) appeared to me to be the most singular and inconsistent that he has urged in his work. Representation itself must be confessed to be an infringement on the most perfect liberty; for the best organised system cannot preclude the possibility of a variance between the popular and the representative will. Responsibility, strictly speaking, it can rarely admit; for the secrets of political fraud are so impenetrable, and the line which separates corrupt decision from erroneous judgment so indiscernibly minute, that the cases where the deputies could be made properly responsible are too few to be named as exceptions. Their dismissal is the only punishment that can be inflicted; and all that the best constitution can attain is a high probability of unison between the constituent and his deputy. This seems attained in the arrangements of France. The Electors of the Departments are so numerous, and so popularly elected, that there is the highest probability of their being actuated in their elections, and re-elections, by the sentiments of the Primary Assemblies. They have too many points of contact with the general mass to have an insulated opinion, and too fugitive an existence to have a separate interest. This is true of those cases, where the merits or demerits of candidates may be supposed to have reached the Primary Assemblies; but in those far more numerous cases, where they are too obscure to obtain that notice, but by the polluted medium of a popular canvass, this delegation of the franchise is still more evidently wise. The peasant, or artisan, who is a Primary Elector, knows intimately among his equals, or immediate superiors, many men who have information and honesty enough to choose a good representative, but few who have genius, leisure, and ambition for the

situation themselves. Of Departmental Electors he may be a disinterested, deliberate, and competent judge: but were he to be complimented, or rather mocked, with the direct right of electing legislators, he must, in the tumult, venality, and intoxication of an election mob, give his suffrage without any possible just knowledge of the situation, character, and conduct of the candidates. So unfortunately false, indeed, seems the opinion of Mr. Burke, that this arrangement is the only one that substantially, and in good faith, provides for the exercise of deliberate discrimination in the constituent.

This hierarchy of electors, was, moreover, obtruded on France by necessity. Had they rejected it, they would have had only the alternative of tumultuous electoral assemblies, or a tumultuous Legislature. If the primary electoral assemblies had been so divided as to avoid tumult, their deputies would have been so numerous as to have made the national assembly a mob. If the number of electoral assemblies had been reduced to the number of deputies constituting the Legislature, each of them would have been too numerous. I cannot perceive that peculiar unfitness which is hinted at by Mr. Burke in the right of *personal* choice to be delegated.* It is in the practice of all states delegated to great officers, who are entrusted with the power of nominating their subordinate agents. It is in the most ordinary affairs of common life delegated, when our *ultimate* representatives are too remote from us to be within the sphere of our observation. It is remarkable that M. de Calonne, addressing his work to a people enlightened by the masterly discussions to which these subjects have given rise, has not, in all the fervour of his zeal to criminate the new institutions, hazarded this objection. This is not the only instance in which the Ex-Minister has shown more respect to the nation

* Burke, p. 271.

whom he addresses, than Mr. Burke has paid to the intellect and information of the English public.*

Thus much of the elements of the legislative body. Concerning that body, thus constituted, various questions remain. Its unity or division will admit of much dispute. It will be deemed of the greatest moment by the zealous admirers of the English constitution, to determine, whether any semblance of its legislative organisation could have been attained by France, if good, or ought to have been pursued by her, if attainable. Nothing has been asserted with more confidence by Mr. Burke than the facility with which the fragments of the long subverted liberty of France might have been formed into a British constitution: but of this general position he has neither explained the mode, nor defined the limitations. Nothing is more favourable to the popularity of a work than these lofty generalities which are light enough to pass into vulgar currency, and to become the maxims of a popular creed. Proclaimed as they are by Mr. Burke, they gratify the pride and indolence of the people, who are thus taught to speak what gains applause, without any effort of intellect, and imposes silence, without any labour of confutation; but touched by definition, they become too simple and precise for eloquence, — too cold and abstract for popularity. It is necessary to inquire with more precision in what manner France

* Though it may, perhaps, be foreign to the purpose, I cannot help thinking one remark on this topic interesting. It will illustrate the difference of opinion between even the Aristocratic party in France and the rulers of England. M. de Calonne (p. 383.) rightly states it to be the unanimous instruction of France to her representatives, to enact the equal admissibility of all citizens to public employ! England adheres to the Test Act! The arrangements of M. Neckar for elections to the States-General, and the scheme of MM. Mounier and Lally-Tollendal for the new constitution, included a representation of the people nearly exact. Yet the idea of it is regarded with horror in England! The highest *Aristocrates* of France approach more nearly to the creed of general liberty than the most popular politicians of England.

could have assimilated the remains of her ancient constitution to that of the English Legislature. Three modes only seem conceivable: — the preservation of the three Orders distinct; the union of the Clergy and Nobility in one upper chamber; or some mode of selecting from these two Orders a body like the House of Lords. Unless the insinuations of Mr. Burke point to one or other of these schemes, I cannot divine their meaning.

The first mode would neither have been congenial in spirit nor similar in form to the constitution of England: — convert the Convocation into an integrant and co-ordinate branch of our Legislature, and some faint semblance of structure might be discovered. But it would then be necessary to arm our Clergy with an immense mass of property, rendered still more formidable by the concentration of great benefices in the hands of a few, and to bestow on this clerico-military aristocracy, in each of its shapes of Priest and Noble, a separate and independent voice. The Monarch would thus possess three negatives, — one avowed and disused, and two latent and in perpetual activity, — on the single voice which impotent and illusive formality had yielded to the Third Estate.

Even under the reign of despotism the second plan was proposed by M. de Calonne*, — that the Clergy and Nobility should form an Upper House, to exercise conjointly with the King and the Commons the legislative authority. That such a constitution would have been diametrically opposite in its spirit and principles to that of England, will be evident to those who

* See his Lettre au Roi, 9th February, 1789. See also Sur l'Etat de France, p. 167. It was also, as we are informed by M. de Calonne, suggested in the *Cahiers* of the Nobility of Metz and Montargis. The proposition of such radical changes by the Nobility, is incontestable evidence of the general conviction that a total change was necessary, and is an unanswerable reply to Mr. Burke and M. de Calonne.

reflect how different were the Nobility of each country. In England they are a small body, united to the mass by innumerable points of contact, receiving from it perpetually new infusions, and returning to it, undistinguished and unprivileged, the majority of their children. In France they formed an immense caste, insulated by every barrier that prejudice or policy could raise. The Nobles of England are a senate of two hundred: the Noblesse of France were a *tribe* of two hundred thousand. Nobility is in England only hereditary, so far as its professed object — the support of an hereditary senate — demands. Nobility in France was as widely inheritable as its real purpose — the maintenance of a privileged *caste* — prescribed. It was therefore necessarily descendible to all male children. The Noblesse of France were at once formidable from the immense property of their body, and dependent from the indigence of their patrician rabble of cadets, whom honour inspired with servility, and servility excluded from the path to independence. To this formidable property were added the revenues of the Church, monopolised by some of their children; while others had no patrimony but their sword. If these last were generous, the habits of military service devoted them, from loyalty, — if they were prudent, the hope of military promotion devoted them, from interest, to the King. How immense, therefore, and irresistible, would the Royal influence have been over electors, of whom the majority were the servants and creatures of the Crown? What would be thought in England of a House of Lords, which, while it represented or contained the whole landed interest of the kingdom, should necessarily have a majority of its members septennially or triennially nominated by the King? Yet such a one would still yield to the French Upper House of M. de Calonne: for the monied and commercial interests of England, which would continue to be represented by the Commons, are important and formidable, while in

France they are comparatively insignificant. The aristocracy could have been strong only against the people, — impotent against the Crown.

There remains only the selection of an Upper House from among the Nobility and Clergy: and to this there are insuperable objections. Had the right of thus forming a branch of the Legislature by a single act of prerogative been given to the King, it must have strengthened his influence to a degree terrible at any, — but fatal at this period. Had any mode of election by the provinces, or the Legislature, been adopted, or had any control on the nomination of the Crown been vested in them, the new dignity would have been sought with an activity of corruption and intrigue, of which, in such a national convulsion, it is impossible to estimate the danger. No general principle of selection, such as that of opulence or antiquity, would have remedied the evil; for the excluded and degraded would have felt that nobility was equally the patrimony of all. By the abolition of nobility, no one was degraded; for to "degrade" is to lower from a rank that continues to exist in society.

So evident indeed was the impossibility of what Mr. Burke supposes to have been attainable, that no party in the Assembly suggested the imitation of the English model. The system of his oracles in French politics, — MM. Lally and Mounier, — approached more near to the constitution of the American States. They proposed a Senate to be chosen for life by the King, from candidates offered to his choice by the provinces. This Senate was to enjoy an absolute negative on legislative acts, and to form the great national court for the trial of public delinquents. In effect, such a body would have formed a far more vigorous aristocracy than the English Peerage. The latter body only preserves its dignity by a wise disuse of its power. But the Senate of M. Mounier would have been an aristocracy moderated and legalised, which, because it appeared to have less independence, would

in fact have been emboldened to exert more. Deriving their rights equally with the Lower House from the people, and vested with a more dignified and extensive trust, they would neither have shrunk from the conflict with the Commons nor the King. The permanence of their authority must have given them a superiority over the former;—the speciousness of their cause over the latter: and it seems probable, that they would have ended in subjugating both. Let those who suppose that this Senate would not have been infected by the "corporation spirit," consider how keenly the ancient judicatures of France had been actuated by it.

As we quit the details of these systems, a question arises for our consideration of a more general and more difficult nature,—Whether a simple representative legislature, or a constitution of mutual control, be the best form of government? * To examine this question at length is inconsistent with the object and limits of the present publication (which already grows insensibly beyond its intended size); but a few general principles may be hinted, on which the decision of the question chiefly depends.

It will not be controverted, that the object of establishing a representative legislature is to collect the general will. That will is one: it cannot therefore, without a solecism, be *doubly* represented. Any absolute† negative opposed to the national will, decisively spoken by its representatives, is null, as an usurpation of the popular sovereignty. Thus far does the abstract principle of representation condemn the division of the legislation.

* This question, translated into familiar language, may perhaps be thus expressed,—"Whether the vigilance of the master, or the squabbles of the servants, be the best security for faithful service?"

† The suspensive veto vested in the French King is only an appeal to the people on the conduct of their representatives. The voice of the people clearly spoken, the negative ceases.

All political bodies, as well as all systems of law, foster the preponderance of partial interests. A controlling senate would be most peculiarly accessible to this contagious spirit: a representative body itself can only be preserved from it by those frequent elections which break combinations, and infuse new portions of popular sentiments. Let us grant that a popular assembly may sometimes be precipitated into unwise decision by the seductions of eloquence, or the rage of faction, and that a controlling senate might remedy this evil: but let us recollect, that it is better the public interest should be occasionally mistaken than systematically opposed.

It is perhaps susceptible of proof, that these governments of balance and control have never existed but in the vision of theorists. The fairest example will be that of England. If the two branches of the Legislature, which it is pretended control each other, are ruled by the same class of men, the control must be granted to be imaginary. The great proprietors, titled and untitled, possess the whole force of both Houses of Parliament that is not immediately dependent on the Crown. The Peers have a great influence in the House of Commons. All political parties are formed by a confederacy of the members of both Houses. The Court party, acting equally in both, is supported by a part of the independent aristocracy; —the Opposition by the remainder of the aristocracy, whether peers or commoners. Here is every symptom of collusion,—no vestige of control. The only case indeed, where control could arise, is where the interest of the Peerage is distinct from that of the other great proprietors. But their separate interests are so few and paltry, that the history of England will not afford one undisputed instance.*

* The rejection of the Peerage Bill of George the First is urged with great triumph by De Lolme. There it seems the Commons rejected the Bill, purely actuated by their fears, that the aristocracy would acquire a strength through a limitation of the

"Through a diversity of members and interests," if we may believe Mr. Burke, "general liberty had as many securities as there were separate views in the several orders." If by "general liberty" be understood the power of the collective body of these orders, the position is undeniable: but if it means, — what it ought to mean, — the liberty of mankind, nothing can be more false. The higher class in society, — whether their names be nobles, bishops, judges, or possessors of landed and commercial wealth, — has ever been united by common views, far more powerful than those petty repugnances of interest to which this variety of description may give rise. Whatever may be the little conflicts of ecclesiastical with secular, or of commercial with landed opulence, they have the one common interest of preserving their elevated place in the social order. There never was, and never will be, in civilised society, but two grand interests, — that of the rich and that of the poor. The privileges of the several orders among the former will be guarded, and Mr. Burke will decide that general liberty is secure! It is thus that a Polish Palatine and the Assembly of Jamaica profanely appeal to the principles of freedom. It is thus that Antiquity, with all her pretended political philosophy, cannot boast one philosopher who questioned the justice of servitude, — nor with all her pretended public virtue, one philanthropist who deplored the misery of slaves.

One circumstance more concerning the proposed Legislature remains to be noticed, — the exclusion of the King's Ministers from it. This "Self-denying

number of Peers, destructive of the balance of their respective powers. It is unfortunate that political theorists do not consult the *history* as well as the *letter* of legislative proceedings. The rejection of that Bill was occasioned by the secession of Walpole. The debate was not guided by any general legislative principles. It was simply an experiment on the strength of the two parties contending for power, in a Parliament to which we owe the Septennial Act.

Ordinance" I unequivocally disapprove. I regard all disfranchisement as equally unjust in its principle, destructive in its example, and impotent in its purpose. Their presence would have been of great utility with a view to business, and perhaps, by giving publicity to their opinions, favourable on the whole to public liberty. The fair and open influence of a Government is never formidable. To exclude them from the Legislature, is to devote them to the purposes of the Crown, and thereby to enable them to use their indirect and secret influence with more impunity and success. The exclusion is equivalent to that of all men of superior talent from the Cabinet: for no man of genius will accept an office which banishes him from the supreme assembly, which is the natural sphere of his powers.

Of the plan of the Judicature, I have not yet presumed to form a decided opinion. It certainly approaches to an experiment, whether a code of laws can be formed sufficiently simple and intelligible to supersede the necessity of professional lawyers.* Of all the attempts of the Assembly, the complicated relations of civilised society seem to render this the most problematical. They have not, however, concluded this part of their labours: and the feebleness attributed to the elective judicatures of the Departments may be remedied by the dignity and force with which they will invest the two high national tribunals.†

On the subject of the Executive Magistracy, the Assembly have been accused of violating their own principles by the assumption of executive powers; and their advocates have pleaded guilty to the charge. It has been forgotten that they had a double function

* The sexennial election of the Judges is strongly and ably opposed by M. de Calonne, — chiefly on the principle, that the stability of judicial offices is the only inducement to men to devote their lives to legal study.

† The Cour de Cassation and the Haute Cour Nationale.

to perform: they were not only to erect a new constitution, but they were to guard it from destruction. Had a superstitious tenderness for a principle confined them to theoretical abstractions which the breath of power might destroy, they would indeed have merited the epithets of visionaries and enthusiasts. We must not, as has been justly observed, mistake for the new political edifice what is only the scaffolding necessary to its erection. The powers of the First Magistrate are not to be estimated by the debility to which the convulsions of the moment have reduced them, but by the provisions of the future constitution.

The portion of power with which the King of France is invested is certainly as much as pure theory would demand for an executive magistrate. An organ to collect the public will, and a hand to execute it, are the only necessary constituents of the social union: the popular representative forms the first,—the executive officer the second. To the point where this principle would have conducted them, the French have not ventured to proceed. It has been asserted by Mr. Burke, that the French King is to have no negative on the laws. This, however, is not true. The minority who opposed any species of negative in the Crown was only one hundred out of eight hundred members. The King possesses the power of withholding his assent to a proposed law for two successive Assemblies. This species of suspensive *veto* is with great speciousness and ingenuity contended by M. Neckar to be more efficient than the obsolete negative of the English princes.* A mild and limited negative may, he remarked, be exercised without danger or odium; while a prerogative, like the absolute *veto*, must sink into impotence from its invidious magnitude. Is not that negative really efficient, which is only to yield to the national voice, spoken after four years' deliberation? The most absolute *veto* must, if the people

* Rapport fait au Roi dans son Conseil, 11th Sept., 1789.

persist, prove eventually only suspensive.* "The power of remonstrance," says Mr. Burke, "which was anciently vested in the Parliament of Paris, is now absurdly entrusted to the Executive Magistrate." But the *veto* of the Parliament was directed against the legislative authority; whereas the proposed one of the King is an appeal to the people against their representatives: the latter is the only share in legislation, — whether it be nominally absolute, or nominally limited, — that a free government can entrust to its Supreme Magistrate. †

On the Prerogative of declaring War and Peace, Mr. Burke ‡ has shortly, and M. de Calonne § at great length, arraigned the system of the Assembly. In it war is to be declared by a decree of the Legislature, on the proposition of the King, who possesses exclusively the initiative. The difference between it and the theory of the English constitution is purely nominal. That theory supposes an independent House of Commons, a rigorous responsibility of the King's Ministers, and an effective power of impeachment of them. Were these in any respect realised, it is perfectly obvious, that a decision for war must in every case depend on the deliberation of the Legislature. No minister would hazard hostilities without the sanction of a body who held a sword suspended over his head; and no power would remain to the Executive Magistrate but the initiative. The forms indeed, in the majority of cases, aim at a semblance of the theory. A Royal Message announces impending hostilities, and is re-echoed by a Parliamentary Address of promised support. It is this address alone which emboldens

* The negative possessed by the King is precisely double that of the Assembly. He may oppose his will to that of his whole people for four years, — the term of the existence of two Assemblies. The whole of this argument is in some measure *ad hominem*, for I myself am dubious about the utility of any species of *veto*, — absolute or suspensive.

† Burke, p. 301. ‡ Ibid. p. 295. § Calonne, pp. 170—200.

and authorises the Cabinet to proceed. The Royal Message corresponds to the French initiative; and if the purity of our practice bore any proportion to the speciousness of our theory, the address would be a "decree" of the Legislature, adopting the proposition of the King. No man, therefore, who is a sincere and enlightened admirer of the English constitution, as it ought, and is pretended to exist, can consistently reprobate an arrangement, which differs from it only in the most frivolous circumstances. In our practice, indeed, no trace of those discordant powers which are supposed in our theoretical constitution remains: there the most beautiful simplicity prevails. The same influence determines the executive, and legislative power: the same Cabinet makes war in the name of the King, and sanctions it in the name of the Parliament. But France is destitute of the cement which unites these discordant materials:—her exchequer is ruined.

Granted, however, that this formidable prerogative is more curtailed than it is in our theory, the expediency of such limitation remains to be considered. The chief objections to it, are its tendency to favour the growth of foreign factions, and to derogate from the promptitude so necessary to military success. To both these objections there is one general answer:—they proceed on the supposition that France will retain her ancient political system. But if she adheres to her own declarations, war must become to her so rare an occurrence, that the objections become insignificant. Foreign powers have no temptation to purchase factions in a state which does not interpose in foreign politics: and a wise nation will regard victorious war as not less fatally intoxicating to the victors, than widely destructive to the vanquished. France, after having renounced for ever the idea of conquest, can indeed have no source of probable hostilities, but her colonies. Colonial possessions have been so unanswerably demonstrated to be commer-

cially useless, and politically ruinous, that the conviction of philosophers cannot fail of having, in due time, its effect on the minds of enlightened Europe, and delivering the French empire from this cumbrous and destructive appendage.

But even were the exploded villany that has obtained the name of "politics" to be re-adopted in France, the objections would still be feeble. The first, which must be confessed to have a specious and formidable air, seems evidently to be founded on the history of Sweden and Poland, and on some facts in that of the Dutch Republic. It is a remarkable example of those loose and remote analogies by which sophists corrupt and abuse history. Peculiar circumstances in the situation of these states disposed them to be the seat of foreign faction. This did not arise from war being decided upon by public bodies; for if it had, a similar evil must have existed in ancient Rome and Carthage, in modern Venice, and Switzerland, in the Republican Parliament of England, and in the Congress of the United States of America. Holland, too, was perfectly exempt from it, till the age of Charles II. and Louis XIV., when, divided between jealousy of the commerce of England and dread of the conquests of France, she threw herself into the arms of the House of Orange, and forced the partisans of freedom into a reliance on French support. The case of Sweden is with the utmost facility explicable. An indigent and martial people, whether it be governed by one or many despots, will ever be sold to enterprising and opulent ambition: and recent facts have proved, that a change in the government of Sweden has not changed the stipendiary spirit of its military system. Poland is an example still less relevant: — there a crowd of independent despots naturally league themselves variously with foreign Powers. Yet Russian force has done more than Russian gold; and Poland has suffered still more from feebleness than venality.

No analogy can be supposed to exist between these cases and that of France. All the Powers of Europe could not expend money enough to form and *maintain* a faction in that country. Suppose it possible that its Legislature could *once* be corrupted; yet to purchase in succession a series of assemblies, Potosi itself would be unequal. All the states which have been quoted were poor,—therefore cheaply corrupted: their governments were aristocratic, and were therefore only to be *once* bought; the people were ignorant, and could therefore be sold by their governors with impunity. The reverse of these circumstances will save France, as they have saved England, from this "worst of evils:"—their wealth makes the attempt difficult; their discernment makes it hazardous; their short trust of power renders the object worthless, and its permanence impossible.

That subjecting such a decision to the deliberations of a popular assembly will, in a great measure, unnerve the vigour of hostilities, I am not disposed to deny. France must, however, when her constitution is cemented, be, in a defensive view, invincible: and if her government is unfitted for aggression, it is little wonder that the Assembly should have made no provision for a case which their principles do not suppose.

This is the last important arrangement respecting the executive power which Mr. Burke has treated; and its consideration conducts us to a subject of infinite delicacy and difficulty, which has afforded no small triumph to the enemies of the Revolution, the organisation of the army. To reconcile the existence of an army of a hundred and fifty thousand men, of a navy of a hundred ships of the line, and of a frontier guarded by a hundred fortresses, with the existence of a free government, is a tremendous problem. History affords no example in which such a force has not recoiled on the state, and become the ready instrument of military usurpation: and if the state of France were not perfectly unexampled, the inference would be inevitable.

An army, with the sentiments and habits which it is the system of modern Europe to inspire, is not only hostile to freedom, but incompatible with it. A body possessed of the whole force of a state, and systematically divested of every civic sentiment, is a monster that no rational polity can tolerate; and every circumstance clearly shows it to be the object of French legislation to destroy it, — not as a body of armed citizens, but as an army. This is wisely and gradually to be effected: two grand operations conduct to it, — arming the people, and unsoldiering the army.

An army of four millions can never be coerced by one of a hundred and fifty thousand; neither can they have a separate sentiment from the body of the nation, for they are the same. Whence the horror of Mr. Burke at thus arming the nation, under the title of "a municipal army," has arisen, it is even difficult to conjecture. Has it ceased to be true, that the defence of a free state is only to be committed to its citizens? Are the long opposition to a standing army in England, its tardy and jealous admission, and the perpetual clamour (at length illusively gratified) for a militia, to be exploded, as the gross and uncourtly sentiments of our unenlightened ancestors? "They must rule," says Mr. Burke, "by an army." If that be the system of the Assembly, their policy is still more wretched than he has represented it: for they systematically strengthen the governed, while they enfeeble their engine of government. A military democracy, if it means a deliberative body of soldiers, is the most execrable of tyrannies; but if it be understood to denote a popular government, under which every citizen is disciplined and armed, it must then be pronounced to be the only free one which retains within itself the means of preservation.

The professional soldiers, rendered harmless by the strength of the municipal army, are in many other ways invited to throw off those abject and murderous habits which form the perfect modern soldier. In

other states the soldiery are in general disfranchised by their poverty: but in France a great part may enjoy the full rights of citizens. They are not then likely to sacrifice their superior to their inferior capacity, nor to elevate their military importance by committing political suicide. The diffusion of political knowledge among them, which is ridiculed and reprobated by Mr. Burke, is the only remedy that can fortify them against the seduction of an aspiring commander. They have, indeed, gigantic strength, and they may crush their fellow-citizens, by dragging down the social edifice; but they must themselves be overwhelmed by its fall. The despotism of armies is the slavery of soldiers: an army cannot be strong enough to tyrannise, that is not itself cemented by the most absolute interior tyranny. The diffusion of these great truths will perpetuate, as they have produced, a revolution in the character of the French soldiery. Military services will be the *duty* of all citizens, and the *trade* of none.* If a separate body of citizens, as an army, is deemed necessary, it will probably be formed by rotation: a certain period of military service will be exacted from every citizen, and may, as in the ancient republics, be made a necessary qualification for the pursuit of civil honours. "Gallos quoque in bellis floruisse audivimus" †, may again be the sentiment of our children. The glory of heroism, and the splendour of conquest, have long enough been the patrimony of that great nation. It is time that it should seek a new glory, and a new

* Again I must encounter the derision of Mr. Burke, by quoting the ill-fated citizen of Geneva, whose life was embittered by the cold friendship of a philosopher, and whose memory is proscribed by the alarmed enthusiasm of an orator. I shall presume to recommend to the perusal of every reader his tract entitled, "Considérations sur le Gouvernement de Pologne," &c. — more especially what regards the military system.

† The expression of Tacitus (Agricola), quoted by Mr. Burke in the Speech on the Army Estimates. — Ed.

splendour, under the shade of freedom, in cultivating the arts of peace, and extending the happiness of mankind. Happy would it be for us all, if the example of that "manifesto of humanity" which has been adopted by the legislators of France, should make an adequate impression on surrounding nations.

> Tunc genus humanum positis sibi consulat armis,
> Inque vicem gens omnis amet.*

SECTION V.

ENGLISH ADMIRERS VINDICATED.

It is thus that Mr. Burke has spoken of the men and measures of a foreign nation, where there was no patriotism to excuse his prepossession or his asperity, and no duty or feeling to preclude him from adopting the feelings of a disinterested posterity, and assuming the dispassionate tone of a philosopher and a historian. What wonder then if he should wanton in all the eloquence and virulence of an advocate against fellow-citizens, to whom he attributes the flagitious purpose of stimulating England to the imitation of such enormities. The Revolution and Constitutional Societies, and Dr. Price, whom he regards as their oracle and guide, are the grand objects of his hostility. For them no contumely is too debasing,—no invective too intemperate,—no imputation too foul. Joy at the downfall of despotism is the indelible crime, for which no virtue can compensate, and no punishment can atone. An inconsistency, however, betrays itself not unfrequently in literary quarrels:—he affects to despise those whom he appears to dread. His anger exalts those whom his ridicule would vilify; and on

* Pharsalia, lib. i.

those whom at one moment he derides as too contemptible for resentment, he at another confers a criminal eminence, as too audacious for contempt. Their voice is now the importunate chirp of the meagre shrivelled insects of the hour,—now the hollow murmur, ominous of convulsions and earthquakes, that are to lay the fabric of society in ruins. To provoke against the doctrines and persons of these unfortunate Societies this storm of execration and derision, it was not sufficient that the French Revolution should be traduced; every record of English policy and law is to be distorted.

The Revolution of 1688 is confessed to have established principles by those who lament that it has not reformed institutions. It has sanctified the theory, if it has not insured the practice of a free government. It declared, by a memorable precedent, the right of the people of England to revoke abused power, to frame the government, and bestow the crown. There was a time, indeed, when some wretched followers of Filmer and Blackwood lifted their heads in opposition: but more than half a century had withdrawn them from public contempt, to the amnesty and oblivion which their innoxious stupidity had purchased.

It was reserved for the latter end of the eighteenth century to construe these innocent and obvious inferences into libels on the constitution and the laws. Dr. Price has asserted (I presume without fear of contradiction) that the House of Hanover owes the crown of England to the choice of their people, and that the Revolution has established our right "to choose our own governors, to cashier them for misconduct, and to frame a government for ourselves."* The first proposition, says Mr. Burke, is either false or nugatory. If it imports that England is an elective

* A Discourse on the Love of our Country, delivered on Nov. 4th, 1789, at the Meeting-house in Old Jewry, to the Society for commemorating the Revolution in Great Britain. London, 1789.

monarchy, "it is an unfounded, dangerous, illegal, and unconstitutional position." "If it alludes to the election of his Majesty's ancestors to the throne, it no more legalises the government of England than that of other nations, where the founders of dynasties have generally founded their claims on some sort of election." The first member of this dilemma merits no reply. The people may certainly, as they have done, choose an hereditary rather than an elective monarchy: they may elect a race instead of an individual. It is vain to compare the pretended elections in which a council of barons, or an army of mercenaries have imposed usurpers on enslaved and benighted kingdoms, with the solemn, deliberate, national choice of 1688. It is, indeed, often expedient to sanction these deficient titles by subsequent acquiescence in them. It is not among the projected innovations of France to revive the claims of any of the posterity of Pharamond and Clovis, or to arraign the usurpations of Pepin or Hugh Capet. Public tranquillity thus demands a veil to be drawn over the successful crimes through which kings have so often "waded to the throne." But wherefore should we not exult, that the supreme magistracy of England is free from this blot, —that as a direct emanation from the sovereignty of the people, it is as legitimate in its origin as in its administration. Thus understood, the position of Dr. Price is neither false nor nugatory. It is not nugatory, for it honourably distinguishes the English monarchy among the governments of the world; and if it be false, the whole history of our Revolution must be a legend. The fact was shortly, that the Prince of Orange was elected King of England, in contempt of the claims, not only of the exiled monarch and his son, but of the Princesses Mary and Anne, the undisputed progeny of James. The title of William III. was then clearly not by succession; and the House of Commons ordered Dr. Burnet's tract to be burnt by the hands of the hangman, for maintaining that it

was by conquest. There remains only election: for these three claims to royalty are all that are known among men. It is futile to urge, that the Convention deviated only slightly from the order of succession. The deviation was indeed slight, but the principle was destroyed. The principle that justified the elevation of William III. and the preference of the posterity of Sophia of Hanover to those of Henrietta of Orleans, would equally, in point of right, have vindicated the election of Chancellor Jeffries or Colonel Kirke. The choice was, like every other choice, to be guided by views of policy and prudence; but it was a choice still.

From these views arose that repugnance between the conduct and the language of the Revolutionists, of which Mr. Burke has availed himself. Their conduct was manly and systematic: their language was conciliating and equivocal. They kept measures with a prejudice which they deemed necessary to the order of society. They imposed on the grossness of the popular understanding, by a sort of compromise between the constitution and the abdicated family. "They drew a politic well-wrought veil," to use the expression of Mr. Burke, over the glorious scene which they had acted. They affected to preserve a semblance of succession,—to recur for the objects of their election to the posterity of Charles and James,—that respect and loyalty might with less violence to public sentiment attach to the new Sovereign. Had a Jacobite been permitted freedom of speech in the Parliaments of William III. he might thus have arraigned the Act of Settlement:—"Is the language of your statutes to be at eternal war with truth? Not long ago you profaned the forms of devotion by a thanksgiving, which either means nothing, or insinuates a lie: you thanked Heaven for the preservation of a King and a Queen on the throne of their ancestors,—an expression which either alluded only to their descent, which was frivolous, or insinuated

their hereditary right, which was false. With the same contempt for consistency and truth, we are this day called on to settle the crown of England on a princess of Germany, 'because' she is the granddaughter of James the First. If that be, as the phraseology insinuates, the true and sole reason of the choice, consistency demands that the words after 'excellent' should be omitted, and in their place be inserted 'Victor Amadeus, Duke of Savoy, married to the daughter of the most excellent Princess Henrietta, late Duchess of Orleans, daughter of our late Sovereign Lord Charles I. of glorious memory.' Do homage to royalty in your actions, or abjure it in your words: avow the grounds of your conduct, and your manliness will be respected by those who detest your rebellion." What reply Lord Somers, or Mr. Burke, could have devised to this Philippic, I know not, unless they confessed that the authors of the Revolution had one language for novices and another for adepts. Whether this conduct was the fruit of caution and consummate wisdom, or of a narrow, arrogant, and dastardly policy, which regarded the human race as only to be governed by being duped, it is useless to inquire, and might be presumptuous to determine. But it certainly was not to be expected, that any controversy should have arisen by confounding their *principles* with their *pretexts:* with the latter the position of Dr. Price has no connexion; from the former, it is an infallible inference.

The next doctrine of this obnoxious Sermon that provokes the indignation of Mr. Burke, is, "that the Revolution has established our right to cashier our governors for misconduct." Here a plain man could have foreseen scarcely any diversity of opinion. To contend that the deposition of a king for the abuse of his powers did not establish a principle in favour of the like deposition, when the like abuse should again occur, is certainly one of the most arduous enterprises that ever the heroism of paradox encountered. He

has, however, not neglected the means of retreat. "No government," he tells us, "could stand a moment, if it could be blown down with anything so loose and indefinite as opinion of misconduct." One might suppose, from the dexterous levity with which the word "misconduct" is introduced, that the partisans of democracy had maintained the expediency of deposing a king for every frivolous and venial fault, —of revolting against him for the choice of his titled or untitled valets,—his footmen, or his Lords of the Bedchamber. It would have been candid in Mr. Burke not to have dissembled what he must know, that by "misconduct" was meant that precise species of misconduct for which James II. was dethroned,—a conspiracy against the liberty of his country.

Nothing can be more weak than to urge the constitutional irresponsibility of kings or parliaments. The law can never suppose them responsible, because their responsibility supposes the dissolution of society, which is the annihilation of law. In the governments which have hitherto existed, the power of the magistrate is the only article in the social compact: destroy it, and society is dissolved. It is because they cannot be legally and constitutionally, that they must be morally and rationally responsible. It is because there are no remedies to be found within the pale of society, that we are to seek them in nature, and throw our parchment chains in the face of our oppressors. No man can deduce a precedent of law from the Revolution; for law cannot exist in the dissolution of government: a precedent of reason and justice only can be established in it. And perhaps the friends of freedom merit the misrepresentation with which they have been opposed, for trusting their cause to such frail and frivolous auxiliaries, and for seeking in the profligate practices of men what is to be found in the sacred rights of nature. The system of lawyers is indeed widely different. They can only appeal to usage, precedents, authorities, and statutes. They display

their elaborate frivolity, and their perfidious friendship, in disgracing freedom with the fantastic honour of a pedigree. A pleader at the Old Bailey, who would attempt to aggravate the guilt of a robber or a murderer, by proving that King John or King Alfred punished robbery and murder, would only provoke derision. A man who should pretend that the reason why we had right to property is, because our ancestors enjoyed that right four hundred years ago, would be justly contemned. Yet so little is plain sense heard in the mysterious nonsense which is the cloak of political fraud, that the Cokes, the Blackstones, and the Burkes, speak as if our right to freedom depended on its possession by our ancestors. In the common cases of morality we should blush at such an absurdity. No man would justify murder by its antiquity, or stigmatise benevolence for being new. The genealogist who should emblason the one as coeval with Cain, or stigmatise the other as upstart with Howard, would be disclaimed even by the most frantic partisan of aristocracy. This Gothic transfer of genealogy to truth and justice is peculiar to politics. The existence of robbery in one age make its vindication in the next; and the champions of freedom have abandoned the stronghold of right for precedent, which, when the most favourable, is, as might be expected from the ages which furnish it, feeble, fluctuating, partial, and equivocal. It is not because we *have been* free, but because we *have a right to be* free, that we ought to demand freedom. Justice and liberty have neither birth nor race, youth nor age. It would be the same absurdity to assert, that we have a right to freedom, because the Englishmen of Alfred's reign were free, as that three and three are six, *because* they were so in the camp of Genghis Khan. Let us hear no more of this ignoble and ignominious pedigree of freedom. Let us hear no more of her Saxon, Danish, or Norman ancestors. Let the immortal daughter of Reason, of Justice, and of God, be no longer confounded

with the spurious abortions that have usurped her name.

"But," says Mr. Burke, "we do not contend that right is created by antiquarian research. We are far from contending that possession legitimates tyranny, or that fact ought to be confounded with right. But (to strip his eulogies on English wisdom of their declamatory appendage) the impression of antiquity endears and ennobles freedom, and fortifies it by rendering it august and venerable in the popular mind." The illusion is useful; the expediency of political imposture is the whole force of the argument; — a principle odious to the friends of freedom, as the grand bulwark of secular and spiritual despotism. To pronounce that men are only to be governed by delusion is to libel the human understanding, and to consecrate the frauds that have elevated despots and muftis, pontiffs and sultans, on the ruin of degraded and oppressed humanity. But the doctine is as false as it is odious. Primary political truths are few and simple. It is easy to make them understood, and to transfer to government the same enlightened self-interest that presides in the other concerns of life. It may be made to be respected, not because it is ancient, or because it is sacred, — not because it has been established by barons, or applauded by priests, — but because it is useful. Men may easily be instructed to maintain rights which it is their interest to maintain, and duties which it is their interest to perform. This is the only principle of authority that does not violate justice and insult humanity: it is also the only one which can possess stability. The various fashions of prejudice and factitious sentiment which have been the basis of governments, are short-lived things. The illusions of chivalry, and the illusions of superstition, which have given to them splendour or sanctity, are in their turn succeeded by new modes of opinion and new systems of manners. Reason alone and natural sentiment are the denizens of every

nation and the contemporaries of every age. A conviction of the utility of government affords the only stable and honourable security for obedience.

Our ancestors at the Revolution, it is true, were far from feeling the full force of these sublime truths: nor was the public mind of Europe, in the seventeenth century, sufficiently enlightened and matured for the grand enterprises of legislation. The science which teaches the rights of man, and the eloquence that kindles the spirit of freedom, had for ages been buried with the other monuments of wisdom and the other relics of the genius of antiquity. The revival of letters first unlocked — but only to a few — the sacred fountain. The necessary labours of criticism and lexicography occupied the earlier scholars; and some time elapsed before the spirit of antiquity was transfused into its admirers. The first man of that period who united elegant learning to original and masculine thought was Buchanan*; and he too seems to have been the first scholar who caught from the ancients the noble flame of republican enthusiasm. This praise is merited by his neglected, though incomparable tract, De Jure Regni, in which the principles of popular politics, and the maxims of a free government, are delivered with a precision, and enforced with an energy, which no former age had equalled, and no succeeding one has surpassed. The subsequent progress of the human mind was slow. The profound views of Harrington were derided as the ravings of a visionary; and who can wonder, that the frantic loyalty which depressed Paradise Lost,

* It is not a little remarkable, that Buchanan puts into the mouth of his antagonist, Maitland, the same alarms for the downfall of literature that have been excited in the mind of Mr. Burke by the French Revolution. We can smile at such alarms on a retrospect of the literary history of Europe for the seventeenth of eighteen centuries; and should our controversies reach the enlightened scholars of a future age, they will probably, with the same reason, smile at the alarms of Mr. Burke.

should involve in ignominy the eloquent Apology of Milton for the People of England against a feeble and venal pedant. Sidney,

> "By ancient learning to th' enlightened love
> Of ancient freedom warm'd," †

taught the principles which he was to seal with his blood; and Locke, whose praise is less that of being bold and original, than of being temperate, sound, lucid, and methodical, deserves the immortal honour of having systematised and rendered popular the doctrines of civil and religious liberty. In Ireland, Molyneux, the friend of Locke, produced The Case of Ireland, — a production of which it is sufficient praise to say, that it was ordered to be burnt by a despotic parliament. In Scotland, Andrew Fletcher, the scholar of Algernon Sidney, maintained the cause of his deserted country with the force of ancient eloquence, and the dignity of ancient virtue. Such is a rapid enumeration of those who had before, or near the Revolution, contributed to the diffusion of political light. But their number was small, their writings were unpopular, their dogmas were proscribed. The habits of reading had only then begun to reach the great body of mankind, whom the arrogance of rank and letters has ignominiously confounded under the denomination of the vulgar.

Many causes too contributed to form a powerful Tory interest in England. The remnant of that Gothic sentiment, the extinction of which Mr. Burke so pathetically deplores, which engrafted loyalty on a point of honour in military attachment, formed one part, which may be called the "Toryism of chivalry." Doctrines of a divine right in kings, which are now too much forgotten even for successful ridicule, were then supported and revered; — these may be called the "Toryism of superstition." A third species arose

† Thomson's Summer.

from the great transfer of property to an upstart commercial interest, which drove the ancient gentry of England, for protection against its inroads, behind the throne; — this may be called the "Toryism of landed aristocracy."* Religious prejudices, outrages on natural sentiments, which any artificial system is too feeble to withstand, and the stream of events which bore them along to extremities which no man could have foreseen, involved the Tories in the Revolution, and made it a truly national act: but their repugnance to every shadow of innovation was invincible.

Something the Whigs may be supposed to have conceded for the sake of conciliation; but few even of their leaders, it is probable, had grand and liberal views. What indeed could have been expected from the delegates of a nation, in which, a few years before, the University of Oxford, representing the national learning and wisdom, had, in a solemn decree, offered their congratulations to Sir George Mackenzie (infamous for the abuse of brilliant accomplishments to the most servile and profligate purposes) for having confuted the abominable doctrines of Buchanan and Milton, and for having demonstrated the divine rights of kings to tyrannise and oppress mankind! It must be evident, that a people which could thus, by the organ of its most learned body, prostrate its reason before such execrable absurdities, was too

* Principle is respectable, even in its mistakes; and these Tories of the last century were a party of principle. There were accordingly among them men of the most elevated and untainted honour. Who will refuse that praise to Clarendon and Southampton, to Ormonde and Montrose? But Toryism, as a party of principle, cannot now exist in England; for the principles on which we have seen it to be founded, exist no more. The Gothic sentiment is effaced; the superstition is exploded; and the landed and commercial interests are completely intermixed. The Toryism of the present day can only arise from an abject spirit, or a corrupt heart.

young for legislation. Hence the absurd debates in the Convention about the palliative phrases of "abdicate," "desert," &c., which were better cut short by the Parliament of Scotland, when they used the correct and manly expression, that James II. had "forfeited the throne." Hence we find the Revolutionists perpetually belying their political conduct by their legal phraseology: hence their impotent and illusive reforms: hence their neglect of foresight * in not providing bulwarks against the natural tendency of a disputed succession to accelerate most rapidly the progress of Royal influence, by rendering it necessary to strengthen so much the possessor of the crown against the pretender to it.

But to elucidate the question more fully, "let us listen to the genuine oracles of Revolution policy;"—not to the equivocal and palliative language of their statutes, but to the unrestrained effusion of sentiment in that memorable conference between the Lords and Commons, on Tuesday the 5th of February, 1688, which terminated in establishing the present government of England. The Tories, yielding to the torrent in the personal exclusion of James, resolved to embarrass the Whigs, by urging that the declaration of the abdication and vacancy of the throne, was a change of the government, *pro hâc vice*, into an elective monarchy. The inference is irresistible: and it must be

* This progress of Royal influence from a disputed succession has, in fact, most fatally taken place. The Protestant succession was the supposed means of preserving our liberties; and to that *means* the *end* has been most deplorably sacrificed. The Whigs, the sincere though timid and partial friends of freedom, were forced to cling to the throne as the anchor of liberty. To preserve it from utter shipwreck, they were forced to yield something to its protectors;—hence a national debt, a septennial Parliament, and a standing army. The avowed reason of the two last was Jacobitism;—hence the unnatural coalition between Whiggism and Kings during the reigns of the two first princes of the House of Hanover, which the pupilage of Leicester House so totally broke.

confessed, that though the Whigs were the better citizens, the Tories were the more correct logicians. It is in this conference that we see the Whig leaders compelled to disclose so much of those principles, which tenderness for prejudice, and reverence for usage, had influenced them to dissemble. It is here that we shall discover sparks kindled in the collision of debate sufficient to enlighten the "politic gloom" in which they had enveloped their measures.

If there be any names venerable among the constitutional lawyers of England, they are those of Lord Somers and Serjeant Maynard. They were both conspicuous managers for the Commons in this conference; and the language of both will more than justify the inferences of Dr. Price, and the creed of the Revolution Society. My Lord Nottingham, who conducted the conference on the part of the Tories, in a manner most honourable to his dexterity and acuteness, demanded of the managers for the Commons: — "Whether they mean the throne to be so vacant as to annul the succession in the hereditary line, and so all the heirs to be cut off? which we (the Lords) say, will make the Crown *elective*." Maynard, whose argument always breathed much of the old republican spirit, replied with force and plainness: — "It is not that the Commons do say the crown of England is always and perpetually elective; but it is necessary there be a supply where there is a defect." It is impossible to mistake the import of these words. Nothing can be more evident, than that by the mode of denying "that the crown was always and perpetually elective," he confesses that it was for the then exigency elective. In pursuance of his argument, he uses a comparison strongly illustrative of his belief in dogmas anathematised by Mr. Burke: — "If two of us make a mutual agreement to help and defend each other from any one that should assault us in a journey, and he that is with me turns upon me, and breaks my head, he hath undoubtedly abdicated my assistance,

and revoked." Sentiments of the kingly office, more irreverent and more correct, are not to be found in the most profane evangelist that disgraces the Democratic canon. It is not unworthy of incidental remark, that there were then persons who felt as great horror at novelties, which have since been universally received, as Mr. Burke now feels at the "rights of men." The Earl of Clarendon, in his strictures on the speech of Mr. Somers said: — "I may say thus much in general, that this breaking the original contract is a language that has not long been used in this place, nor known in any of our law books, or public records. It is sprung up but as taken from some late authors, and those none of the best received!" This language one might have supposed to be that of Mr. Burke: it is not however his; it is that of a Jacobite lord of the seventeenth century.

The Tories continued to perplex and intimidate the Whigs with the idea of election. Maynard again replies, "The word 'elective' is none of the Commons word. The provision must be made, and if it be, that will not render the kingdom perpetually elective." If it were necessary to multiply citations to prove, that the Revolution was to all intents and purposes an election, we might hear Lord Nottingham, whose distinction is peculiarly applicable to the case before us. "If," says he, "you do once make it elective, I do not say you are always bound to go to election; but it is enough to make it so, if by that precedent there be a breach in the hereditary succession." The reasoning of Sir Robert Howard, another of the managers for the Commons, is bold and explicit: — "My Lords, you will do well to consider. Have you not yourselves limited the succession, and cut off some that might have a line of right? Have you not concurred with us in our vote, that it is inconsistent with our religion and our laws to have a Papist to reign over us? Must we not then come to an election, if the next heir be a Papist?" — the precise fact which followed.

But what tends the most strongly to illustrate that contradiction between the exoteric and esoteric doctrine, — the legal language, and the real principles,— which forms the basis of this whole argument, is the avowal of Sir Richard Temple, another of the managers for the Commons: — "We are in as natural a capacity as any of our predecessors were to provide for a remedy in such exigencies as this." Hence it followed infallibly, that their posterity to all generations would be in the same "natural capacity," to provide a remedy for such exigencies.

But let us hear their statutes: — there "the Lords Spiritual and Temporal, and Commons do, in the name of all the people of England, most humbly and faithfully submit themselves, their heirs and posterity for ever," &c. Here is the triumph of Mr. Burke; — a solemn abdication and renunciation of right to change the monarch or the constitution! His triumph is increased by this statutory abolition of the rights of men being copied from a similar profession of eternal allegiance made by the Parliament of Elizabeth. It is difficult to conceive any thing more preposterous. In the very act of exercising a right which their ancestors had abdicated in their name, they abdicate the same right in the name of their posterity. To increase the ridicule of this legislative farce, they impose an irrevocable law on their posterity, in the precise words of that law irrevocably imposed on them by their ancestors, at the moment when they are violating it. The Parliament of Elizabeth submit themselves and their posterity for ever: the Convention of 1688 spurn the submission for themselves, but re-enact it for their posterity. And after such a glaring inconsistency, this language of statutory adulation is seriously and triumphantly brought forward as "the unerring oracles of Revolution policy."

Thus evidently has it appeared, from the conduct and language of the leaders of the Revolution, that it was a deposition and an election; and that all lan-

guage of a contrary tendency, which is to be found in their acts, arose from the remnant of their own prejudice, or from concession to the prejudice of others, or from the superficial and presumptuous policy of imposing august illusions on mankind. The same spirit regulated, — the same prejudices impeded their progress in every department. "They acted," says Mr. Burke, "by their ancient States:" — they did not. Were the Peers, and the Members of a dissolved House of Commons, with the Lord Mayor of London, &c. convoked by a summons from the Prince of Orange, the Parliament of England? — no: they were neither lawfully elected, nor lawfully assembled. But they affected a semblance of a Parliament in their Convention, and a semblance of hereditary right in their election. The subsequent Act of Parliament is nugatory; for as that Legislature derived its whole existence and authority from the Convention, it could not return more than it had received, and could not, therefore, legalise the acts of the body which created it. If they were not previously legal, the Parliament itself was without legal authority, and could therefore give no legal sanction.

It is, therefore, without any view to a prior, or allusion to a subsequent revolution, that Dr. Price, and the Revolution Society of London, think themselves entitled to conclude, that abused power is revocable, and that corrupt governments ought to be reformed. Of the first of these Revolutions, — that in 1648, — they may perhaps, entertain different sentiments from Mr. Burke. They will confess that it was debased by the mixture of fanaticism; they may lament that History has so often prostituted her ungenerous suffrage to success; and that the commonwealth was obscured and overwhelmed by the splendid profligacy of military usurpation: but they cannot arrogate to themselves the praise of having been the first to maintain, — nor can Mr. Burke support his claim to have

been the first to reprobate, — since that period, the audacious heresy of popular politics.

The prototype of Mr. Burke is not a less notorious personage than the predecessor he has assigned to Dr. Price. History has preserved fewer memorials of Hugh Peters than of Judge Jeffries. It was the fortune of that luminary and model of lawyers to sit in judgment on one of the fanatical apostles of democracy. In the present ignominious obscurity of the sect in England, it may be necessary to mention, that the name of this criminal was Algernon Sidney, who had, it is true, in his own time acquired some renown, — celebrated as the hero, and deplored as the martyr of freedom. But the learned magistrate was above this "epidemical fanaticism:" he inveighed against his pestilential dogmas in a spirit that deprives Mr. Burke's invective against Dr. Price of all pretensions to originality. An unvarnished statement will so evince the harmony both of the culprits and the accusers, that remark is superfluous: —

"And that the aforesaid Algernon Sidney did make, compose and write, or cause to be made, composed and written, a certain false, scandalous and seditious libel, in which is contained the following English words: — 'The Power originally in the People is delegated to the Parliament. He (meaning the King) is subject to the laws of God, as he is a man, and to the people that made him a king, inasmuch as he is a king.' And in another place of the said libel he says, 'We may therefore take away kings without breaking any yoke, or that is made a yoke, which ought not to be one; and the injury therefore is making or imposing, and there can be none

"We have a right to choose our own governors, to cashier them for misconduct, and to frame a government for ourselves." — *Dr. Price's Sermon.*

in breaking it,' &c." — *Indictment of Algernon Sidney, State Trials*, vol. iii. p. 716.

Thus we see the harmony of the culprits: the one is only a perspicuous and precise abridgment of the other. The harmony of the judges will not be found less remarkable: Mr. Burke, "when he talks as if he had made a discovery, only follows a precedent:" —

"The King, it says, is responsible to them, and he is only their trustee. He has misgoverned, and he is to give it up, that they may be all kings themselves. Gentlemen, I must tell you, I think I ought, more than ordinarily, to press this on you, because I know the misfortunes of the late unhappy rebellion; and the bringing of the late blessed King to the scaffold was first begun by such kind of principles." — *Jeffries' Charge.*

"The Revolution Society chooses to assert, that a king is no more than the first servant of the public, created by it, and responsible to it." — "The second claim of the Revolution Society is cashiering the monarch for misconduct." — "The Revolution Society, the heroic band of fabricators of governments, electors of sovereigns." — "This sermon is in a strain which has never been heard in this kingdom in any of the pulpits which are tolerated or encouraged in it since 1648." — *Mr. Burke's Reflections.*

Thus does Mr. Burke chant his political song in exact unison with the strains of the venerable magistrate: they indict the same crimes; they impute the same motives; they dread the same consequences.

The Revolution Society felt, from the great event which they professedly commemorated, new motives to exult in the emancipation of France. The Revolution of 1688 deserves more the attention of a philosopher from its indirect influence on the progress of human opinion, than from its immediate effects on the government of England. In the first view, it is perhaps difficult to estimate the magnitude of its effects. It sanctified, as we have seen, the general principles of freedom. It gave the first example in civilised modern Europe of a government which reconciled a semblance

of political, and a large portion of civil liberty, with stability and peace. But above all, Europe owes to it the inestimable blessing of an asylum for freedom of thought. Hence England became the preceptress of the world in philosophy and freedom; hence arose the school of sages, who unshackled and emancipated the human mind; from among whom issued the Lockes, the Rousseaus, the Turgots, and the Franklins, — the immortal band of preceptors and benefactors of mankind. They silently operated a grand moral revolution, which was in due time to ameliorate the social order. They had tyrants to dethrone more formidable than kings, and from whom kings held their power. They wrested the sceptre from Superstition, and dragged Prejudice in triumph. They destroyed the arsenal whence Despotism had borrowed her thunders and her chains. These grand enterprises of philosophic heroism must have preceded the reforms of civil government. The Colossus of tyranny was undermined, and a pebble overthrew it.

With this progress of opinion arose the American Revolution; and from this last, most unquestionably, the delivery of France. Nothing, therefore, could be more natural, than that those who, without blind bigotry for the forms, had a rational reverence for the principles of our ancestors, should rejoice in a Revolution, in which these principles, long suffered to repose in impotent abstraction in England, are called forth into energy, expanded, invigorated, and matured. If, as we have presumed to suppose, the Revolution of 1688 may have had no small share in accelerating the progress of light which has dissolved the prejudices that supported despotism, they may be permitted, besides their exultation as friends of humanity, to indulge some pride as Englishmen.

It must be confessed that our ancestors, in 1688, confined, in their practical regulations, their views solely to the urgent abuse. They punished the usurper without ameliorating the government; and they pro-

scribed usurpations without correcting their source. They were content to clear the turbid stream, instead of purifying the polluted fountain. They merit, however, veneration for their achievements, and the most ample amnesty for their defects; for the first were their own, and the last are imputable to the age in which they lived. The true admirers of the Revolution will pardon it for having spared useless establishments, only because they revere it for having established grand principles. But the case of Mr. Burke is different; he deifies its defects, and derides its principles; and were Lord Somers to listen to such misplaced eulogy, and tortured inference, he might justly say, "You deny us the only praise we can claim; and the only merit you allow us is in the sacrifices we were compelled to make to prejudice and ignorance. Your glory is our shame." Reverence for the principles, and pardon of the defects of civil changes, which arise in ages but partially enlightened, are the plain dictates of common sense. Admiration of Magna Charta does not infer any respect for villainage; reverence for Roman patriotism is not incompatible with detestation of slavery; nor does veneration for the Revolutionists of 1688 impose any blindness to the gross, radical, and multiplied absurdities and corruptions in their political system. The true admirers of Revolution principles cannot venerate institutions as sage and effectual protections of freedom, which experience has proved to be nerveless and illusive.

"The practical claim of impeachment,"—the vaunted responsibility of ministers,—is the most sorry juggle of political empiricism by which a people were ever attempted to be lulled into servitude. State prosecutions in free states have ever either languished in impotent and despised tediousness, or burst forth in a storm of popular indignation, that has at once overwhelmed its object, without discrimination of innocence or guilt. Nothing but this irresistible fervour can destroy the barriers within which powerful and

opulent delinquents are fortified. If it is not with imminent hazard to equity and humanity gratified at the moment, it subsides. The natural influence of the culprit, and of the accomplices interested in his impunity, resumes its place. As these trials are necessarily long, and the facts which produce conviction, and the eloquence which rouses indignation, are effaced from the public mind by time, by ribaldry, and by sophistry, the shame of a corrupt decision is extenuated. Every source of obloquy or odium that can be attached to the obnoxious and invidious character of an accuser is exhausted by the profuse corruption of the delinquent. The tribunal of public opinion, which alone preserves the purity of others, is itself polluted; and a people wearied, disgusted, irritated, and corrupted, suffer the culprit to retire in impunity and splendour.*

"Damnatus inani
Judicio. Quid enim salvis infamia nummis?"†

Such has ever been the state of things, when the force of the Government has been sufficient to protect the accused from the first ebullition of popular impetuosity. The democracies of antiquity presented a spectacle directly the reverse; but no history affords any example of a just medium. State trials will always either be impotent or oppressive,—a persecution or a farce.

Thus vain is the security of impeachment: and equally absurd, surely, is our confidence in "the control of parliaments," in their present constitution, and with their remaining powers. To begin with the last:—they possess the nominal power of impeachment. Not to mention its disuse in the case of any

* Part of this description is purely historical. Heaven forbid that the sequel should prove prophetic! When this subject [the late trial of Warren Hastings.—Ed.] presents Mr. Burke to mind, I must say, "Talis cum sis, utinam noster esses."

† Juvenal, Sat. i.

minister for more than seventy years, it is always too late to remedy the evil, and probably always too weak to punish the criminal. They possess a pretended power of withholding supplies: but the situation of society has in truth wrested it from them. The supplies they must vote: for the army must have its pay, and the public creditors their interest. A power that cannot be exercised without provoking mutiny, and proclaiming bankruptcy, the blindest bigot cannot deny to be purely nominal. A practical substitute for these theoretical powers existed till our days in the negative exercised by the House of Commons on the choice of the Minister of the Crown. But the elevation of Mr. Pitt has established a precedent which has extirpated the last shadow of popular control from the government of England:—

> "Olim vera fides, Sulla Marioque receptis,
> Libertatis obit: Pompeio rebus adempto,
> Nunc et ficta perit."*

In truth, the force and the privileges of Parliament are almost indifferent to the people; for it is not the guardian of their rights, nor the organ of their voice. We are said to be "*unequally* represented." This is one of those contradictory phrases that form the political jargon of half-enlightened periods. Unequal freedom is a contradiction in terms. The law is the deliberate reason of all, guiding their occasional will. Representation is an expedient for peacefully, systematically, and unequivocally collecting this universal voice:—so thought and so spoke the Edmund Burke of better times. "To follow, not to force the public inclination; to give a direction, a form, a technical dress, and a specific sanction to the general sense of the community, is the true end of legislature:"†—

* Pharsalia, lib. ix.

† Burke's "Two Letters to Gentlemen in the City of Bristol" (1778), p. 52.

there spoke the correspondent of Franklin*, the champion of America, the enlightened advocate of humanity and freedom! If these principles be true, and they are so true that it seems almost puerile to repeat them, who can without indignation hear the House of Commons of England called a popular representative body? A more insolent and preposterous abuse of language is not to be found in the vocabulary of tyrants. The criterion that distinguishes laws from dictates, freedom from servitude, rightful government from usurpation,—a law being an expression of the general will,—is wanting. This is the grievance which the admirers of the Revolution of 1688 desire to remedy according to its principles. This is that perennial source of corruption which has increased, is increasing, and ought to be diminished. If the general interest is not the object of our government, it is—it must be, because the general will does not govern.

We are boldly challenged to produce our proofs; our complaints are asserted to be chimerical; and the excellence of our government is inferred from its beneficial effects. Most unfortunately for us,—most unfortunately for our country, these proofs are too ready and too numerous. We find them in that "monumental debt," the bequest of wasteful and profligate wars, which already wrings from the peasant something of his hard-earned pittance,—which already has punished the industry of the useful and upright manufacturer, by robbing him of the asylum of his house, and the judgment of his peers†, to which the madness of political Quixotism adds a million for every farthing that the pomp of ministerial empiricism pays,—and which menaces our children with convulsions and calamities of which no age has seen the parallel. We

* Mr. Burke has had the honour of being traduced for corresponding, during the American war, with this great man, because he was a rebel!

† Alluding to the stringent provisions of the "Tobacco Act." —Ed.

find them in the black and bloody roll of persecuting statutes that are still suffered to stain our code;—a list so execrable that were no monument to be preserved of what England was in the eighteenth century but her Statute Book, she might be deemed to have been then still plunged in the deepest gloom of superstitious barbarism. We find them in the ignominious exclusion of great bodies of our fellow-citizens from political trusts, by tests which reward falsehood and punish probity,—which profane the rights of the religion they pretend to guard, and usurp the dominion of the God they profess to revere. We find them in the growing corruption of those who administer the government,—in the venality of a House of Commons, which has become only a cumbrous and expensive chamber for registering ministerial edicts,—in the increase of a nobility degraded by the profusion and prostitution of honours, which the most zealous partisans of democracy would have spared them. We find them, above all, in the rapid progress which has been made in silencing the great organ of public opinion,—that press, which is the true control over the Ministers and Parliaments, who might else, with impunity, trample on the impotent formalities that form the pretended bulwark of our freedom. The mutual control, the well-poised balance of the several members of our Legislature, are the visions of theoretical, or the pretext of practical politicians. It is a government, not of check, but of conspiracy,—a conspiracy which can only be repressed by the energy of popular opinion.

These are no visionary ills,—no chimerical apprehensions: they are the sad and sober reflections of as honest and enlightened men as any in the kingdom. Nor are they alleviated by the torpid and listless security into which the people seem to be lulled. "Summum otium forense non quiescentis sed senescentis civitatis." It is in this fatal temper that men become sufficiently debased and embruted to sink into

placid and polluted servitude. It is then that it may most truly be said, that the mind of a country is slain. The admirers of Revolution principles naturally call on every aggrieved and enlightened citizen to consider the source of his oppression. If penal statutes hang over our Catholic brethren*,—if Test Acts outrage our Protestant fellow-citizens,—if the remains of feudal tyranny are still suffered to exist in Scotland,—if the press is fettered,—if our right to trial by jury is abridged,—if our manufacturers are proscribed and hunted down by excise,—the reason of all these oppressions is the same:—no branch of the Legislature represents the people. Men are oppressed because they have no share in their own government. Let all these classes of oppressed citizens melt their local and partial grievances into one great mass. Let them cease to be suppliants for their rights, or to sue for them like mendicants, as a precarious boon from the arrogant pity of usurpers. Until the Legislature speaks their voice it will oppress them. Let them unite to procure such a Reform in the representation of the people as will make the House of Commons their representative. If, dismissing all petty views of obtaining their own particular ends, they unite for this great object, they must succeed. The co-operating efforts of so many bodies of citizens must awaken the nation; and its voice will be spoken in a tone

* No body of men in any state that pretends to freedom have ever been so insolently oppressed as the Catholic majority of Ireland. Their cause has been lately pleaded by an eloquent advocate, whose virtues might have been supposed to have influenced my praise, as the partial dictate of friendship, had not his genius extorted it as a strict tribute to justice. I perceive that he retains much of that admiration which we cherished in common, by his classical quotation respecting Mr. Burke:—

"Uni quippe vacat, studiisque odiisque carenti,
Humanum lugere genus." Pharsalia, lib. ii.

See "The Constitutional Interests of Ireland with respect to the Popery Laws" (Dublin, 1791), part iv.

that virtuous governors will obey, and tyrannical ones must dread.

This tranquil and legal Reform is the ultimate object of those whom Mr. Burke has so foully branded. In effect, this would be amply sufficient. The powers of the King and the Lords have never been formidable in England, but from discords between the House of Commons and its pretended constituents. Were that House really to become the vehicle of the popular voice, the privileges of other bodies, in opposition to the sense of the people and their representatives, would be but as dust in the balance. From this radical improvement all subaltern reform would naturally and peaceably arise. We dream of no more; and in claiming this, instead of meriting the imputation of being apostles of sedition, we conceive ourselves entitled to be considered as the most sincere friends of tranquil and stable government. We desire to avert revolution by reform, — subversion by correction.* We admonish our governors to reform, while they retain the force to reform with dignity and security: and we conjure them not to await the moment, which will infallibly arrive, when they shall be obliged to supplicate that people, whom they oppress and despise, for the slenderest pittance of their present powers.

The grievances of England do not now, we confess, justify a change by violence: but they are in a rapid progress to that fatal state, in which they will both justify and produce it. It is because we sincerely love tranquil freedom†, that we earnestly deprecate the

* Let the governors of all states compare the convulsion which the obstinacy of the Government provoked in France, with the peaceful and dignified reform which its wisdom effected in Poland. The moment is important, the dilemma inevitable, the alternative awful, the lesson most instructive.

† "Manus hæc inimica tyrannis
Ense petit placidam sub libertate quietem."

[The lines inserted by Algernon Sidney in the Album of the University of Copenhagen. — Ed.]

arrival of the moment when virtue and honour shall compel us to seek her with our swords. Are not they the true friends to authority who desire, that whatever is granted by it "should issue as a gift of her bounty and beneficence, rather than as claims recovered against a struggling litigant? Or, at least, that if her beneficence obtained no credit in her concessions, they should appear the salutary provisions of wisdom and foresight, not as things wrung with blood by the cruel gripe of a rigid necessity."* We desire that the political light which is to break in on England should be "through well-contrived and well-disposed windows, not through flaws and breaches,—through the yawning chasms of our ruin."†

Such was the language of Mr. Burke in cases nearly parallel to the present. But of those who now presume to give similar counsels, his alarm and abhorrence are extreme. They deem the "present times" favourable "to all exertions in the cause of liberty." They naturally must: their hopes in that great cause are from the determined and according voices of enlightened men. The shock that has destroyed the despotism of France has widely dispersed the clouds that intercepted reason from the political and moral world; and we cannot suppose, that England is the only spot that has not been reached by this "flood of light" that has burst upon the human race. We might suppose, too, that Englishmen would be shamed out of their torpor by the great exertions of nations whom we had long deemed buried in hopeless servitude.

But nothing can be more absurd than to assert, that all who admire wish to imitate the French Revolution. In one view, there is room for diversity of opinion among the warmest and wisest friends of freedom,—as to the amount of democracy infused into the new government. In another, and a more important one, it is to be recollected, that the conduct

* Burke, Speech at Bristol. † Ibid.

of nations is apt to vary with the circumstances in which they are placed. Blind admirers of Revolutions take them for implicit models. Thus Mr. Burke admires that of 1688: but we, who conceive that we pay the purest homage to the authors of that Revolution, not in contending for what they then did, but for what they now would do, can feel no inconsistency in looking on France, not to model our conduct, but to invigorate the spirit of freedom. We permit ourselves to imagine how Lord Somers, in the light and knowledge of the eighteenth century,—how the patriots of France, in the tranquillity and opulence of England, would have acted. We are not bound to copy the conduct to which the last were driven by a bankrupt exchequer and a dissolved government, nor to maintain the establishments, which were spared by the first in a prejudiced and benighted age. Exact imitation is not necessary to reverence. We venerate the principles which presided in both events; and we adapt to political admiration a maxim which has long been received in polite letters,—that the only manly and liberal imitation is to speak as a great man would have spoken, had he lived in our times, and had been placed in our circumstances.

But let us hear the charge of Mr. Burke. "Is our monarchy to be annihilated, with all the laws, all the tribunals, all the ancient corporations of the kingdom? Is every landmark of the kingdom to be done away in favour of a geometrical and arithmetical constitution? Is the House of Lords to be useless? Is episcopacy to be abolished?"—and, in a word, is France to be imitated? Yes! if our governors imitate her policy, the state must follow her catastrophe. Man is every where man: imprisoned grievance will at length have vent; and the storm of popular passion will find a feeble obstacle in the solemn imbecility of human institutions. But who are the true friends of order, the prerogative of the monarch, the splendour of the hierarchy, and the dignity of the peerage?—those

most certainly who inculcate, that to withhold Reform is to stimulate convulsion, — those who admonish all to whom honour, and rank, and dignity, and wealth are dear, that they can only in the end preserve them by conceding, while the moment of concession remains, — those who aim at draining away the fountains that feed the torrent, instead of opposing puny barriers to its course. "The beginnings of confusion in England are at present feeble enough; but with you we have seen an infancy still more feeble growing by moments into a strength to heap mountains upon mountains, and to wage war with Heaven itself. Whenever our neighbour's house is on fire, it cannot be amiss for the engines to play a little upon our own." This language, taken in its most natural sense, is exactly what the friends of Reform in England would adopt. Every gloomy tint that is added to the horrors of the French Revolution by the tragic pencil of Mr. Burke, is a new argument in support of their claims; and those only are the real enemies of the Nobility, the Priesthood, and other bodies of men that suffer in such convulsions, who stimulate them to unequal and desperate conflicts. Such are the sentiments of those who can admire without servilely copying recent changes, and can venerate the principles without superstitiously defending the corrupt reliques of old revolutions.

"Grand, swelling sentiments of liberty," says Mr. Burke, "I am sure I do not despise. Old as I am, I still read the fine raptures of Lucan and Corneille with pleasure." Long may that virtuous and venerable age enjoy such pleasures! But why should he be indignant that "the glowing sentiment and the lofty speculation should have passed from the schools and the closet to the senate," and no longer only serving

"To point a moral or adorn a tale," *

* Vanity of Human Wishes. — Ed.

should be brought home to the business and the bosoms of men? The sublime genius, whom Mr. Burke admires, and who sung the obsequies of Roman freedom, has one sentiment, which the friends of liberty in England, if they are like him condemned to look abroad for a free government, must adopt:—

"Redituraque nunquam
Libertas ultra Tigrim Rhenumque recessit,
Et toties nobis jugulo quæsita negatur." *

SECTION VI.

SPECULATIONS ON THE PROBABLE CONSEQUENCES OF THE FRENCH REVOLUTION IN EUROPE.

THERE is perhaps only one opinion about the French Revolution in which its friends and its enemies agree:—they both conceive that its influence will not be confined to France; they both predict that it will produce important changes in the general state of Europe. This is the theme of the exultation of its admirers; this is the source of the alarms of its detractors. It were indeed difficult to suppose that a Revolution so unparalleled should take place in the most renowned of the European nations, without spreading its influence throughout the Christian commonwealth; connected as it is by the multiplied relations of politics, by the common interest of commerce, by the wide intercourse of curiosity and of literature, by similar arts, and by congenial manners. The channels by which the prevailing sentiments of France may enter into the other nations of Europe, are so obvious and so numerous, that it would be unnecessary and tedious to detail them; but I may remark, as among the most conspicuous, a central

* Pharsalia, lib. vii.

situation, a predominating language, and an authority almost legislative in the ceremonial of the private intercourse of life. These and many other causes must facilitate the diffusion of French politics among neighbouring nations: but it will be justly remarked, that their effect must in a great measure depend on the stability of the Revolution. The suppression of an honourable revolt would strengthen all the governments of Europe: the view of a splendid revolution would be the signal of insurrection to their subjects. Any reasonings on the influence of the French Revolution may therefore be supposed to be premature until its permanence be ascertained. Of that permanence my conviction is firm: but I am sensible that in the field of political prediction, where veteran sagacity* has so often been deceived, it becomes me to harbour with distrust, and to propose with diffidence, a conviction influenced by partial enthusiasm, and perhaps produced by the inexperienced ardour of youth.

The moment at which I write (August 25th, 1791,) is peculiarly critical. The invasion of France is now spoken of as immediate by the exiles and their partisans; and a confederacy of despots† is announced with new confidence. Notwithstanding these threats, I retain my doubts whether the jarring interests of the European Courts will permit this alliance to have

* Witness the memorable example of Harrington, who published a demonstration of the impossibility of re-establishing monarchy in England six months before the restoration of Charles II. Religious prophecies have usually the inestimable convenience of relating to a distant futurity.

† The malignant hostility displayed against French freedom by a perfidious Prince, who occupies and dishonours the throne of Gustavus Vasa, cannot excite our wonder, though it may provoke our indignation. The pensioner of French despotism could not rejoice in its destruction; nor could a monarch, whose boasted talents have hitherto been confined to perjury and usurpation, fail to be wounded by the establishment of freedom: for freedom demands genius, not intrigue, — wisdom, not cunning.

much energy or cordiality; and whether the cautious prudence of despots will send their military slaves to a school of freedom in France. But if there be doubts about the likelihood of the enterprise being undertaken, there can be few about the probability of its event. History celebrates many conquests of obscure tribes, whose valour was animated by enthusiasm; but she records no example where a foreign force has subjugated a powerful and gallant people, governed by the most imperious passion that can sway the human breast.* Whatever wonders fanaticism has performed, may be again effected by a passion as ardent, though not so transitory, because it is sanctioned by virtue and reason. To animate patriotism, — to silence tumult, — to banish division, — would be the only effects of an invasion in the present state of France. A people abandoned to its own inconstancy, have often courted the yoke which they had thrown off: but to oppose foreign hostility to the enthusiasm of a nation, can only have the effect of adding to it ardour, and constancy, and force. These and similar views must offer themselves to the European Cabinets; but perhaps they perceive themselves to be placed in so peculiar a situation, that exertion and

* May I be permitted to state how the ancestors of a nation now stigmatised for servility felt this powerful sentiment? The Scottish Nobles, contending for their liberty under Robert Bruce, thus spoke to the Pope: — "Non pugnamus propter divitias, honores, aut dignitates, sed propter libertatem tantummodo, quam nemo bonus nisi simul cum vitâ amittit!" Nor was this sentiment confined to the Magnates; for the same letter declares the assent of the Commons: — "Totaque Communitas Regni Scotiæ!" Reflecting on the various fortunes of my country, I cannot exclude from my mind the comparison between its present reputation and our ancient character, — "terrarum et libertatis extremos:" nor can I forget the honourable reproach against the Scottish name in the character of Buchanan by Thuanus (Hist. lib. lxxvi. cap. 11.), "Libertate genti innatâ in regium fastigium acerbior." This melancholy retrospect is however relieved by the hope that a gallant and enlightened people will not be slow in renewing the era for such reproaches.

inactivity are equally perilous. If they fail in the attempt to crush the infant liberty of France, the ineffectual effort will recoil on their own governments: if they tamely suffer a school* of freedom to be founded in the centre of Europe, they must foresee the hosts of disciples that are to issue from it for the subversion of their despotism.

They cannot be blind to a species of danger which the history of Europe reveals to them in legible characters. They see, indeed, that the negotiations, the wars, and the revolutions of vulgar policy, pass away without leaving behind them any vestige of their transitory and ignominious operation: but they must remark also, that besides this monotonous villany, there are cases in which Europe, actuated by a common passion, has appeared as one nation. The religious passion animated and guided the spirit of chivalry: — hence arose the Crusades. "A nerve was touched of exquisite feeling; and the sensation vibrated to the heart of Europe."† In the same manner the Reformation gave rise to religious wars the duration of which exceeded a century and a half. Both examples prove the existence of that sympathy, by the means of which a great passion, taking its rise in any considerable state of Europe, must circulate through the whole Christian commonwealth. Illusion is, however, transient, while truth is immortal. The epidemical fanaticism of former times was short-

* The most important materials for the philosophy of history are collected from remarks on the coincidence of the situations and sentiments of distant periods; and it may be curious as well as instructive, to present to the reader the topics by which the Calonnes of Charles I. were instructed, to awaken the jealousy and solicit the aid of the European courts: — "A dangerous combination of his Majesty's subjects have laid a design to dissolve the monarchy and frame of government, becoming a dangerous precedent to all the monarchies of Christendom, if attended with success in their design." — Charles I.'s Instructions to his Minister in Denmark, Ludlow's Memoirs, vol. iii. p. 257.

† Gibbon, Decline and Fall, &c., chap. lvii.

lived, for it could only flourish in the eclipse of reason: but the virtuous enthusiasm of liberty, though it be like that fanaticism contagious, is not like it transitory.

But there are other circumstances which entitle us to expect, that the example of France will have a mighty influence on the subjects of despotic governments. The Gothic governments of Europe have lived their time. "Man, and for ever!" is the sage exclamation of Mr. Hume.* Limits are no less rigorously prescribed by Nature to the age of governments than to that of individuals. The Heroic governments of Greece yielded to a body of legislative republics: these were in their turn swallowed up by the conquests of Rome. That great empire itself, under the same forms, passed through various modes of government. The first usurpers concealed it under a republican disguise: their successors threw off the mask, and avowed a military despotism: it expired in the ostentatious feebleness of an Asiatic monarchy.† It was overthrown by savages, whose rude institutions and barbarous manners have, until our days, influenced Europe with a permanence refused to wiser and milder laws. But, unless historical analogy be altogether delusive, the decease of the Gothic governments cannot be distant. Their maturity is long past: and symptoms of their decrepitude are rapidly accumulating. Whether they are to be succeeded by more beneficial or more injurious forms may be doubted; but that they are about to perish, we are authorised to suppose, from the usual age to which the governments recorded in history have arrived.

There are also other presumptions furnished by

* Philosophical Works, vol. iii. p. 579. — Ed.

† See this progress stated in the concise philosophy of Montesquieu, and illustrated by the copious eloquence of Gibbon. The republican disguise extends from Augustus to Severus; the military despotism from Severus to Diocletian; the Asiatic *Sultanship* from Diocletian to the final extinction of the Roman name.

historical analogy, which favour the supposition that legislative governments are about to succeed to the rude usurpations of Gothic Europe. The commonwealths which in the sixth and seventh centuries before the Christian era were erected on the ruins of the heroic monarchies of Greece, are perhaps the only genuine example of governments truly legislative recorded in history. A close inspection will, perhaps, discover some coincidence between the circumstances which formed them and those which now influence the state of Europe. The Phenician and Egyptian colonies were not like our colonies in America, populous enough to subdue or extirpate the native savages of Greece: they were, however, sufficiently so to instruct and civilise them. From that alone could their power be derived: to that therefore were their efforts directed. Imparting the arts and the knowledge of polished nations to rude tribes, they attracted, by avowed superiority of knowledge, a submission necessary to the effect of their legislation, — a submission which impostors acquire through superstition, and conquerors derive from force. An age of legislation supposes great inequality of knowledge between the legislators and those who receive their institutions. The Asiatic colonists, who first scattered the seeds of refinement, possessed this superiority over the Pelasgic hordes; and the legislators who in subsequent periods organised the Grecian commonwealths, acquired from their travels in the polished states of the East, that reputation of superior knowledge, which enabled them to dictate laws to their fellow-citizens. Let us then compare Egypt and Phenicia with the enlightened part of Europe, — separated as widely from the general mass by the moral difference of instruction, as these countries were from Greece by the physical obstacles which impeded a rude navigation, — and we must discern, that philosophers become legislators are colonists from an enlightened country reforming the institutions of rude tribes. The present

moment indeed resembles with wonderful exactness the legislative age of Greece. The multitude have attained sufficient knowledge to value the superiority of enlightened men ; and they retain a sufficient consciousness of ignorance to preclude rebellion against their dictates. Philosophers have meanwhile long remained a distinct nation in the midst of an unenlightened multitude. It is only now that the conquests of the press are enlarging the dominion of reason ; as the vessels of Cadmus and Cecrops spread the arts and the wisdom of the East among the Pelasgic barbarians.

These general causes, — the unity of the European commonwealth, the decrepitude on which its fortuitous governments are verging, and the similarity between our age and the only recorded period when the ascendant of philosophy dictated laws, — entitle us to hope that freedom and reason will be rapidly propagated from their source in France. And there are not wanting symptoms which justify the speculation. The first symptoms which indicate the approach of a contagious disease are the precautions adopted against it: the first marks of the probable progress of French principles are the alarms betrayed by despots. The Courts of Europe seem to look on France, and to exclaim in their despair, —

> " Hinc populum late regem, belloque superbum,
> Venturum excidio Libyæ."

The King of Spain already seems to tremble for his throne, though it be erected on so firm a basis of general ignorance and triumphant priestcraft. By expelling foreigners, and by subjecting the entrance of travellers to such multiplied restraints, he seeks the preservation of his despotism in a vain attempt to convert his kingdom into a Bastille, and to banish his subjects from the European commonwealth. The Chinese government has indeed thus maintained its permanency; but it is insulated by Nature more

effectually than by policy. Let the Court of Madrid recall her ambassadors, shut up her ports, abandon her commerce, sever every tie that unites her to Europe: the effect of such shallow policy must be that of all ineffectual rigour (and all rigour short of extirpation is here ineffectual), to awaken reflection,— to stimulate inquiry, — to aggravate discontent, — and to provoke convulsion. "There are no longer Pyrenees," said Louis XIV., on the accession of his grandson to the Spanish throne: "There are no longer Pyrenees," exclaim the alarmed statesmen of Aranjuez, — "to protect our despotism from being consumed by the sun of liberty." The alarm of the Pope for the little remnant of his authority naturally increases with the probability of the diffusion of French principles. Even the mild and temperate aristocracies of Switzerland seem to apprehend the arrival of that period, when men will not be content to owe the benefits of government to the fortuitous character of their governors, but to its own intrinsic excellence. Even the unsuccessful struggle of Liege, and the theocratic insurrection of Brabant, have left behind them traces of a patriotic party, whom a more favourable moment may call into more successful action. The despotic Court of the Hague is betraying alarm that the Dutch republic may yet revive, on the destruction of a government odious and intolerable to an immense majority of the people. Every where then are those alarms discernible, which are the most evident symptoms of the approaching downfall of the European despotisms.

But the impression produced by the French Revolution in England, — in an enlightened country, which had long boasted of its freedom, — merits more particular remark. Before the publication of Mr. Burke, the public were not recovered from that astonishment into which they had been plunged by unexampled events, and the general opinion could not have been collected with precision. But that per-

formance has divided the nation into marked parties. It has produced a controversy, which may be regarded as the trial of the French Revolution before the enlightened and independent tribunal of the English public. What its decision has been I shall not presume to decide; for it does not become an advocate to announce the decision of the judge. But this I may be permitted to remark, that the conduct of our enemies has not resembled the usual triumph of those who have been victorious in the war of reason. Instead of the triumphant calmness that is ever inspired by conscious superiority, they have betrayed the bitterness of defeat, and the ferocity of resentment, which are peculiar to the black revenge of detected imposture. Priestcraft and Toryism have been supported only by literary advocates of the most miserable description: but they have been ably aided by auxiliaries of another kind. Of the two great classes of enemies to political reform, — the interested and the prejudiced, — the activity of the first usually supplies what may be wanting in the talents of the last. Judges have forgotten the dignity of their function, — priests the mildness of their religion; the Bench, which should have spoken with the serene temper of justice, the Pulpit, whence only should have issued the healing sounds of charity, have been prostituted to party purposes, and polluted with invectives against freedom. The churches have resounded with language at which Laud would have shuddered, and Sacheverell would have blushed: the most profane comparisons between our duty to the Divinity and to kings, have been unblushingly pronounced: flattery of the Ministers has been mixed with the solemnities of religion, by the servants, and in the temple of God. These profligate proceedings have not been limited to a single spot: they have been general over England. In many churches the French Revolution has been *expressly named:* in a majority it was the constant theme of invective for many weeks before its intended

celebration. Yet these are the peaceful pastors, who so sincerely and meekly deprecate political sermons.*

Nor was this sufficient. The grossness of the popular mind, on which political invective made but a faint impression, was to be roused into action by religious fanaticism, — the most intractable and domineering of all destructive passions. A clamour which had for half a century lain dormant has been revived: — the Church was in danger! The spirit of persecution against an unpopular sect has been artfully excited; and the friends of freedom, whom it might be odious and dangerous professedly to attack, are to be overwhelmed as Dissenters. That the majority of the advocates for the French Revolution are not Dissenters is, indeed, sufficiently known to their enemies. They are well known to be philosophers and friends of humanity, superior to the creed of any sect, and indifferent to the dogmas of any popular faith. But it has suited the purpose of their profligate adversaries to confound them with the Dissenters, and to animate against them the fury of prejudices which those very adversaries despised.

The diffusion of these invectives has produced those obvious and inevitable effects, which it may require something more than candour to suppose not foreseen and desired. A banditti, which had been previously stimulated, as it has since been excused and panegyrised by incendiary libellers, have wreaked their vengeance on a philosopher †, illustrious by his talents and his writings, venerable for the spotless purity of his

* These are no vague accusations. A sermon was preached in a parish church in Middlesex on the anniversary of the Restoration, in which eternal punishment was denounced against political disaffection! Persons for whose discernment and veracity I can be responsible, were among the indignant auditors of this infernal homily.

† Alluding to the destruction of Dr. Priestley's house in the neighbourhood of Birmingham by the mob, on the 14th of July, 1791. — Ed.

life, and amiable for the unoffending simplicity of his manners. The excesses of this mob of churchmen and loyalists are to be poorly expiated by the few misguided victims who are sacrificed to the vengeance of the law.

We are, however, only concerned with these facts, as they are evidence from our enemies of the probable progress of freedom. The probability of that progress they all conspire to prove. The briefs of the Pope, and the pamphlets of Mr. Burke, the edicts of the Spanish Court, and the mandates of the Spanish inquisition, the Birmingham rioters, and the Oxford graduates, equally render to Liberty the involuntary homage of their alarm.

REASONS

AGAINST

THE FRENCH WAR OF 1793.*

At the commencement of the year 1793 the whole body of the supporters of the war seemed unanimous; yet even then was perceptible the germ of a difference which time and events have since unfolded. The Minister had early and frequent recourse to the high principles of Mr. Burke, in order to adorn his orations, — to assail his antagonists in debate, — to blacken the character of the enemy, — and to arouse the national spirit against them. Amid the fluctuating fortune of the war, he seemed in the moment of victory to deliver opinions scarcely distinguishable from those of Mr. Burke, and to recede from them by imperceptible degrees, as success abandoned the arms of the Allies. When the armies of the French republic were every where triumphant, and the pecuniary embarrassments of Great Britain began to be severely felt, he at length dismissed altogether the consideration of the internal state of France, and professed to view the war as merely defensive against aggressions committed on Great Britain and her allies.

That the war was not just on such principles perhaps a very short argument will be sufficient to demonstrate. War is just only to those by whom it is unavoidable; and every appeal to arms is unrighteous, except that of a nation which has no other

* From the Monthly Review, vol. xl. p. 435. — Ed.

resource for the maintenance of its security or the assertion of its honour. Injury and insult do not of themselves make it lawful for a nation to seek redress by war, because they do not make it necessary: another means of redress is still in her power, and it is still her duty to employ it. It is not either injury or insult; but injury for which reparation has been asked and denied, or insult for which satisfaction has been demanded and refused, that places her in a state in which, having in vain employed every other means of vindicating her rights, she may justly assert them by arms. Any commonwealth, therefore, which shuts up the channel of negotiation while disputes are depending, is the author of the war which may follow. As a perfect equality prevails in the society and intercourse of nations, no state is bound to degrade herself by submitting to unavowed and clandestine negotiation; but every government has a perfect right to be admitted to that open, avowed, authorised, honourable negotiation which in the practice of nations is employed for the pacific adjustment of their contested claims. To refuse authorised negotiation is to refuse the only negotiation to which a government is forced to submit: it is, therefore, in effect to refuse negotiation altogether; and it follows, as a necessary consequence, that they who refuse such authorised negotiation are responsible for a war which that refusal makes on their part unjust.

These principles apply with irresistible force to the conduct of the English Government in the commencement of the present war. They complained, perhaps justly, of the opening of the Scheldt,—of the Decree of Fraternity,—of the countenance shown to disaffected Englishmen: but they refused that authorised intercourse with the French Government through its ambassador, M. Chauvelin, which *might* have amicably terminated these disputes. It is no answer that they were ready to carry on a clandestine correspondence with that government through Noel and Maret, or any

other of its secret agents. That Government was not obliged to submit to such an intercourse; and the British Government put itself in the wrong by refusing an intercourse of another sort.

No difficulties arising from a refusal to negotiate embarrass the system of Mr. Burke. It is founded on the principle that the nature of the French government is a just ground of war for its destruction, and regards the particular acts of that government no farther than as they are proofs of its irreconcileable hostility to all other states and communities.

We are not disposed to deny that so mighty a change in the frame of government and the state of society, of one of the greatest nations of the civilised world, as was effected by the Revolution in France, — attended by such extravagant opinions, and producing such violent passions, — was of a nature to be dangerous to the several governments and to the quiet of the various communities, which compose the great commonwealth of Europe. To affirm the contrary would be in effect to maintain that man is not the creature of sympathy and imitation, — that he is not always disposed, in a greater or less degree, to catch the feelings, to imbibe the opinions, and to copy the conduct of his fellow-men. Most of the revolutions which have laid ancient systems in ruins, and changed the whole face of society, have sprung from these powerful and active principles of human nature. The remote effect of these revolutions has been sometimes beneficial and sometimes pernicious: but the evil which accompanied them has ever been great and terrible; their future tendency was necessarily ambiguous and contingent; and their ultimate consequences were always dependent on circumstances much beyond the control of the agents. With these opinions, the only question that can be at issue between Mr. Burke and ourselves is, whether a war was a just, effectual, and safe mode of averting the danger with which the French Revolution might threaten the

established governments of Europe;—just in its principle,—effectual for its proposed end,—and safe from the danger of collateral evil. On all the three branches of this comprehensive question we are obliged to dissent very widely from the opinions of Mr. Burke.

We are not required to affirm universally that there never are cases in which the state of the internal government of a foreign nation may become a just ground of war; and we know too well the danger of universal affirmations to extend our line of posts farther than is absolutely necessary for our own defence. We are not convinced of the fact that the French government in the year 1791 (when the Royal confederacy originated) was of such a nature as to be incapable of being so ripened and mitigated by a wise moderation in the surrounding Powers, that it might not become perfectly safe and inoffensive to the neighbouring states. Till this fact be proved, the whole reasoning of Mr. Burke appears to us inconclusive. Whatever may be done by prudence and forbearance is not to be attempted by war. Whoever, therefore, proposes war as the means of attaining any public good, or of averting any public evil, must first prove that his object is unattainable by any other means. And peculiarly heavy is the burden of proof on the man who, in such cases as the present, is the author of violent counsels,—which, even when they are most specious in promise, are hard and difficult in trial, as well as most uncertain in their issue,—which usually preclude any subsequent recurrence to milder and more moderate expedients,—and from which a safe retreat is often difficult, and an honourable retreat is generally impossible.

Great and evident indeed must be the necessity which can justify a war that in its nature must impair, and in its effects may subvert, the sacred principle of national independence,—the great master-principle of public morality, from which all the rules

of the law of nations flow, and which they are all framed only to defend, — of which the balance of power itself (for which so many wars, in our opinion just, have been carried on) is only a safeguard and an outwork, — and of which the higher respect and the more exact observance have so happily distinguished our western parts of Europe, in these later times, above all other ages and countries of the world. Under the guard of this venerable principle, our European societies, with the most different forms of government and the greatest inequalities of strength, have subsisted and flourished in almost equal security, — the character of man has been exhibited in all that variety and vigour which are necessary for the expansion and display both of his powers and his virtues, — the spring and spirit, and noble pride and generous emulation, which arise from a division of territory among a number of independent states, have been combined with a large measure of that tranquil security which has been found so rarely reconcileable with such a division, — the opinion of enlightened Europe has furnished a mild, but not altogether ineffectual control over the excesses of despotism itself, — and the victims of tyranny have at least found a safe and hospitable asylum in foreign countries from the rage of their native oppressors. It has alike exempted us from the lethargic quiet of extensive empire, — from the scourge of wide and rapid conquest, — and from the pest of frequent domestic revolutions.

This excellent principle, like every other rule which governs the moral conduct of men, may be productive of occasional evil. It must be owned that the absolute independence of states, and their supreme exclusive jurisdiction over all acts done within their own territory, secure an impunity to the most atrocious crimes either of usurpers or of lawful governments degenerated into tyrannies. There is no tribunal competent to punish such crimes, because it is not

for the interest of mankind to vest in any tribunal an authority adequate to their punishment; and it is better that these crimes should be unpunished, than that nations should not be independent. To admit such an authority would only be to supply fresh incitements to ambition and rapine, — to multiply the grounds of war, — to sharpen the rage of national animosity, — to destroy the confidence of independence and internal quiet, — and to furnish new pretexts for invasion, for conquest, and for partition. When the Roman general Flaminius was accomplishing the conquest of Greece, under pretence of enfranchising the Grecian republics, he partly covered his ambitious designs under colour of punishing the atrocious crimes of the Lacedæmonian tyrant Nabis.* When Catharine II. and her accomplices perpetrated the greatest crime which any modern government has ever committed against another nation, it was easy for them to pretend that the partition of Poland was necessary for the extirpation of Jacobinism in the north of Europe.

We are therefore of opinion that the war proposed by Mr. Burke is unjust, both because it has not been proved that no other means than war could have preserved us from the danger; and because war was an expedient, which it was impossible to employ for such a purpose, without shaking the authority of that great tutelary principle, under the shade of which the nations of Europe have so long flourished in security. There is no case of fact made out to which the principles of the law of vicinage are to apply. If the fact had been proved, we might confess the justice of the war; though even in that case its wisdom and policy would still remain to be considered.

The first question to be discussed in the examin-

* Livy, lib. xxxiv. cap. 24. The whole narrative is extremely curious, and not without resemblance and application to later events.

ation of every measure of policy is, whether it is likely to be effectual for its proposed ends. That the war against France was inadequate to the attainment of its object, is a truth which is now demonstrated by fatal experience; but which, in our opinion, at the time of its commencement, was very evident to men of sagacity and foresight. The nature of the means to be employed was of itself sufficient to prove their inadequacy. The first condition essential to the success of the war was, that the confederacy of ambitious princes who were to carry it on, should become perfectly wise, moderate, and disinterested,—that they should bury in oblivion past animosities and all mutual jealousies—that they should sacrifice every view of ambition and every opportunity of aggrandisement to the great object of securing Europe from general confusion by re-establishing the ancient monarchy of France. No man has proved this more unanswerably than Mr. Burke himself. This moderation and this disinterestedness were not only necessary for the union of the Allies, but for the disunion of France.

But we will venture to affirm, that the supposition of a disinterested confederacy of ambitious princes is as extravagant a chimera as any that can be laid to the charge of the wildest visionaries of democracy. The universal peace of the Abbé St. Pierre was plausible and reasonable, when compared with this supposition. The universal republic of Anacharsis Cloots himself was not much more irreconcileable with the uniform experience and sober judgment of mankind. We are far from confounding two writers,—one of whom was a benevolent visionary and the other a sanguinary madman,—who had nothing in common but the wildness of their predictions and the extravagance of their hopes. The Abbé St. Pierre had the simplicity to mistake an ingenious raillery of the Cardinal Fleuri for a deliberate adoption of his reveries. That minister had told him "that he had

forgotten an indispensable preliminary — that of sending a body of missionaries to turn the hearts and minds of the princes of Europe." Mr. Burke, with all his knowledge of human nature, and with all his experience of public affairs, has forgotten a circumstance as important as that which was overlooked by the simple and recluse speculator. He has forgotten that he must have made ambition disinterested,—power moderate,—the selfish generous,—and the short-sighted wise, before he could hope for success in the contest which he recommended.* To say that if the authors of the partition of Poland could be made perfectly wise and honest, they might prevail over the French democracy, is very little more than the most chimerical projector has to offer for his wildest scheme. Such an answer only gives us this new and important information, that impracticable projects will be realised when insurmountable obstacles are overcome. Who are you that presume to frame laws for men without taking human passions into account, — to regulate the actions of mankind without regarding the source and principle of those actions? A chemist who in his experiments should forget the power of steam or of electricity, would have no right to be surprised that his apparatus should be shivered to pieces, and his laboratory covered with the fragments.

* Perhaps something more of flexibility of character and accommodation of temper, — a mind more broken down to the practice of the world, — would have fitted Mr. Burke better for the execution of that art which is the sole instrument of political wisdom, and without which the highest political wisdom is but barren speculation — we mean the art of guiding and managing mankind. How can he have forgotten that these vulgar politicians were the only tools with which he had to work in reducing his schemes to practice? These "creatures of the desk and creatures of favour" unfortunately govern Europe. The ends of generosity were to be compassed alone through the agency of the selfish; and the objects of prospective wisdom were to be attained by the exertions of the short-sighted. Monthly Review (*N. S.*), vol. xix. p. 317. — Ed.

It must be owned, indeed, that no one could have ventured to predict the extent and extravagance of that monstrous and almost incredible infatuation which has distracted the strength and palsied the arms of the Allied Powers: but it was easy to foresee, and it was in fact predicted, that a sufficient degree of that infatuation must prevail to defeat the attainment of their professed object. We cannot help expressing our surprise, that the immense difference in this respect between the present confederacy and the Grand Alliance of King William III. did not present itself to the great understanding of Mr. Burke. This is a war to avert the danger of the French Revolution, in which it is indispensably necessary to avoid all appearance of a design to aggrandise the Allies at the expense of France. The other was one designed to limit the exorbitant power of Louis, which was chiefly to be effected by diminishing his overgrown dominions. The members of that confederacy gratified their own ambition by the same means which provided for the general safety. In that contest, every conquest promoted the general object: — in this, every conquest retards and tends to defeat it. No romantic moderation — no chimerical disinterestedness — no sacrifice of private aggrandisement to the cause of Europe, was required in that confederacy. Yet, with that great advantage, it is almost the only one recorded in history, which was successful. Still it required, to build it up, and hold it together, all the exalted genius, all the comprehensive wisdom, all the disinterested moderation, and all the unshaken perseverance of William* — other talents than those of

* "If there be any man in the present age who deserves the honour of being compared with this great prince, it is George Washington. The merit of both is more solid than dazzling. The same plain sense, the same simplicity of character, the same love of their country, the same unaffected heroism, distinguish both these illustrious men; and both were so highly favoured by Providence as to be made its chosen instruments for redeeming

petty intrigue and pompous declamation. The bitterest enemies of our present ministers could scarcely imagine so cruel a satire upon them, as any comparison between their talents and policy, and those of the great monarch. The disapprobation of the conduct of the British Cabinet must have risen to an extraordinary degree of warmth in the mind of Mr. Burke, before he could have prevailed on himself to bring into view the policy of other and better times, and to awaken recollections of past wisdom and glory which must tend so much to embitter our indignation at the present mismanagement of public affairs. In a word, the success of the war required it to be felt by Frenchmen to be a war directed against the Revolution, and not against France; while the ambition of the Allies necessarily made it a war against France, and not against the Revolution. Mr. Burke, M. de Calonne, M. Mallet du Pan, and all the other distinguished writers who have appeared on behalf of the French Royalists — a name which no man should pronounce without pity, and no Englishman ought to utter without shame — have acknowledged, lamented, and condemned the wretched policy of the confederates. We have still to impeach their sagacity, for not having originally foreseen what a brittle instrument such a confederacy must prove; we have still to reproach them, for not having from the first perceived, that to embark the safety of Europe on the success of such an alliance, was a most ambiguous policy, — only to

nations from bondage. As William had to contend with greater captains, and to struggle with more complicated political difficulties, we are able more decisively to ascertain his martial prowess, and his civil prudence. It has been the fortune of Washington to give a more signal proof of his disinterestedness, as he was placed in a situation in which he could without blame resign the supreme administration of that commonwealth which his valour had guarded in infancy against foreign force, and which his wisdom has since guided through still more formidable domestic perils." Monthly Review, vol. xi. p. 308. — Ed.

be reluctantly embraced, after every other expedient was exhausted, in a case of the most imminent danger, and in circumstances of the most imperious necessity.

These reflections naturally lead us to the consideration of the safety of the war, or of the collateral evil with which it was pregnant in either alternative, of its failure or success; and we do not hesitate to affirm, that, in our humble opinion, its success was dangerous to the independence of nations, and its failure hostile to the stability of governments. The choice between two such dreadful evils is embarrassing and cruel: yet, with the warmest zeal for the tranquillity of every people,—with the strongest wishes that can arise from personal habits and character for quiet and repose,—with all our heartfelt and deeply-rooted detestation for the crimes, calamities, and horrors of civil confusion, we cannot prevail on ourselves to imagine that a greater evil could befall the human race than the partition of Europe among the spoilers of Poland. All the wild freaks of popular licentiousness,—all the fantastic transformations of government,—all the frantic cruelty of anarchical tyranny, almost vanish before the terrible idea of gathering the whole civilised world under the iron yoke of military despotism. It is—at least, it was—an instinct of the English character, to feel more alarm and horror at despotism than at any other of those evils which afflict human society; and we own our minds to be still under the influence of this old and perhaps exploded national prejudice. It is a prejudice, however, which appears to us founded on the most sublime and profound philosophy; and it has been implanted in the minds of Englishmen by their long experience of the mildest and freest government with which the bounty of Divine Providence has been pleased for so many centuries to favour so considerable a portion of the human race. It has been nourished by the blood of our forefathers; it is embodied in our most venerable institutions; it is the spirit of our sacred laws;

it is the animating principle of the English character; it is the very life and soul of the British constitution; it is the distinguishing nobility of the meanest Englishman; it is that proud privilege which exalts him, in his own respect, above the most illustrious slave that drags his gilded chain in the court of a tyrant. It has given vigour and lustre to our warlike enterprises, justice and humanity to our laws, and character and energy to our national genius and literature. Of such a prejudice we are not ashamed: and we have no desire to outlive its extinction in the minds of our countrymen:—

"—— tunc omne Latinum
Fabula nomen erit."*

To return from what may be thought a digression, but which is inspired by feelings that we hope at least a few of our readers may still be old-fashioned enough to pardon us for indulging,—we proceed to make some remarks on the dangers with which the failure of this war threatened Europe. It is a memorable example of the intoxication of men, and of their governors, that at the commencement of this war, the bare idea of the possibility of its failure would have been rejected with indignation and scorn: yet it became statesmen to consider this event as at least possible; and, in that alternative, what were the consequences which the European governments had to apprehend? With their counsels baffled, their armies defeated, their treasuries exhausted, their subjects groaning under the weight of taxes, their military strength broken, and their reputation for military superiority destroyed,—they have to contend, in their own states, against the progress of opinions, which their own unfortunate policy has surrounded with the dazzling lustre of heroism, and with all the attractions and fascinations of victory. Disgraced in a con-

* Pharsalia, lib. vii.

flict with democracy abroad, with what vigour and effect can they repress it at home? If they had forborne from entering on the war, the reputation of their power would at least have been whole and entire: the awful question, whether the French Revolution, or the established governments of Europe, are the strongest, would at least have remained undecided; and the people of all countries would not have witnessed the dangerous examples of their sovereigns humbled before the leaders of the new sect. Mr. Burke tells us that the war has at least procured a respite for Europe; but he has forgotten to inform us, that there are respites which aggravate the severity of the punishment, and that there are violent struggles which provoke a fate that might otherwise be avoided.

We purposely forbear to enlarge on this subject, because the display of those evils which, at the commencement of the war, were likely to arise from its failure, is now become, unfortunately, the melancholy picture of the actual situation of Europe. This is a theme more adapted for meditation than discourse. It is as sincere wellwishers to the stability and tranquil improvement of established governments,—as zealous and ardent friends to that admirable constitution of government, and happy order of society, which prevail in our native land, that we originally deprecated, and still condemn, a war which has brought these invaluable blessings into the most imminent peril. All the benevolence and patriotism of the human heart cannot, in our opinion, breathe a prayer more auspicious for Englishmen to the Supreme Ruler of the world, than that they may enjoy to the latest generations the blessings of that constitution which has been bequeathed to them by their forefathers. We desire its improvement, indeed—we ardently desire its improvement—as a means of its preservation; but, above all things, we desire its preservation.

We cannot close a subject, on which we are serious even to melancholy, without offering the slender but unbiassed tribute of our admiration and thanks to that illustrious statesman — the friend of what we must call the better days of Mr. Burke, — whose great talents have been devoted to the cause of liberty and of mankind, — who, of all men, most ardently loves, because he most thoroughly understands, the British constitution, — who has made a noble and memorable, though unavailing, struggle to preserve us from the evils and dangers of the present war, — who is requited for the calumnies of his enemies, the desertion of his friends, and the ingratitude of his country, by the approbation of his own conscience, and by a well-grounded expectation of the gratitude and reverence of posterity. We never can reflect on the event of this great man's counsel without calling to mind that beautiful passage of Cicero, in which he deplores the death of his illustrious rival Hortensius: "Si fuit tempus ullum cum extorquere arma posset e manibus iratorum civium boni civis auctoritas et oratio, tum profecto fuit, cum patrocinium pacis exclusum est aut errore hominum aut timore." *

* De Claris Oratoribus.

ON

THE STATE OF FRANCE

IN 1815.*

To appreciate the effects of the French Revolution on the people of France, is an undertaking for which no man now alive has sufficient materials, or sufficient impartiality, even if he had sufficient ability. It is a task from which Tacitus and Machiavel would have shrunk; and to which the little pamphleteers, who speak on it with dogmatism, prove themselves so unequal by their presumption, that men of sense do not wait for the additional proof which is always amply furnished by their performances. The French Revolution was a destruction of great abuses, executed with much violence, injustice, and inhumanity. The destruction of abuse is, in itself, and for so much, a good: injustice and inhumanity would cease to be vices, if they were not productive of great mischief to society. This is a most perplexing account to balance.

As applied, for instance, to the cultivators and cultivation of France, there seems no reason to doubt the unanimous testimony of all travellers and observers, that agriculture has advanced, and that the condition of the agricultural population has been sensibly im-

* From the Edinburgh Review, vol. xxiv., p. 518. These remarks were written during the Hundred Days, the author having spent part of the preceding winter in Paris. — Ed.

proved. M. de la Place calculates agricultural produce to have increased one fifth during the last twenty-five years. M. Cuvier, an unprejudiced and dispassionate man, rather friendly than adverse to much of what the Revolution destroyed, and who, in his frequent journeys through France, surveyed the country with the eyes of a naturalist and a politician, bears the most decisive testimony to the same general result. M. de Candolle, a very able and enlightened Genevese, who is Professor of Botany at Montpellier, is preparing for the press the fruit of several years devoted to the survey of French cultivation, in which we are promised the detailed proofs of its progress. The apprehensions lately entertained by the landed interest of England, and countenanced by no less an authority than that of Mr. Malthus, that France, as a permanent exporter of corn, would supply our market, and drive our inferior lands out of cultivation, — though we consider them as extremely unreasonable, — must be allowed to be of some weight in this question. No such dread of the rivalship of French corn-growers was ever felt or affected in this country in former times. Lastly, the evidence of Mr. Birkbeck, an independent thinker, a shrewd observer, and an experienced farmer, though his journey was rapid, and though he perhaps wished to find benefits resulting from the Revolution, must be allowed to be of high value.

But whatever may have been the benefits conferred by the Revolution on the cultivators, supposing them to have been more questionable than they appear to have been, it is at all events obvious, that the division of the confiscated lands among the peasantry must have given that body an interest and a pride in the maintenance of the order or disorder which that revolution had produced. All confiscation is unjust. The French confiscation, being the most extensive, is the most abominable example of that species of legal robbery. But we speak only of its political effects

on the temper of the peasantry. These effects are by no means confined to those who had become proprietors. The promotion of many inspired all with pride: the whole class was raised in self-importance by the proprietary dignity acquired by numerous individuals. Nor must it be supposed that the apprehensions of such a rabble of ignorant owners, who had acquired their ownerships by means of which their own conscience would distrust the fairness, were to be proportioned to the reasonable probabilities of danger. The alarms of a multitude for objects very valuable to them, are always extravagantly beyond the degree of the risk, especially when they are strengthened by any sense, however faint and indistinct, of injustice, which, by the immutable laws of human nature, stamps every possession which suggests it with a mark of insecurity. It is a panic fear; — one of those fears which are so rapidly spread and so violently exaggerated by sympathy, that the lively fancy of the ancients represented them as inflicted by a superior power.

Exemption from manorial rights and feudal services was not merely, nor perhaps principally, considered by the French farmers as a relief from oppression. They were connected with the exulting recollections of deliverance from a yoke, — of a triumph over superiors, — aided even by the remembrance of the licentiousness with which they had exercised their saturnalian privileges in the first moments of their short and ambiguous liberty. They recollected these distinctions as an emancipation of their caste. The interest, the pride, the resentment, and the fear, had a great tendency to make the maintenance of these changes a point of honour among the whole peasantry of France. On this subject, perhaps, they were likely to acquire that jealousy and susceptibility which the dispersed population of the country rarely exhibit, unless when their religion, or their national pride, or their ancient usages, are violently attacked. The only

security for these objects would appear to them to be a government arising, like their own property and privileges, out of the Revolution.

We are far from commending these sentiments, and still farther from confounding them with the spirit of liberty. If the forms of a free constitution could have been preserved under a counter-revolutionary government, perhaps these hostile dispositions of the peasants and new proprietors against such a government, might have been gradually mitigated and subdued into being one of the auxiliaries of freedom. But, in the present state of France, there are unhappily no elements of such combinations. There is no such class as landed gentry, — no great proprietors resident on their estates, — consequently no leaders of this dispersed population, to give them permanent influence on the public counsels, to animate their general sluggishness, or to restrain their occasional violence. In such a state, they must, in general, be inert; — in particular matters, which touch their own prejudices and supposed interest, unreasonable and irresistible. The extreme subdivision of landed property might, under some circumstances, be favourable to a democratical government. Under a limited monarchy it is destructive of liberty, because it annihilates the strongest bulwarks against the power of the crown. Having no body of great proprietors, it delivers the monarch from all regular and constant restraint, and from every apprehension but that of an inconstant and often servile populace. And, melancholy as the conclusion is, it seems too probable that the present state of property and prejudice among the larger part of the people of France, rather disposes them towards a despotism deriving its sole title from the Revolution, and interested in maintaining the system of society which it has established, and armed with that tyrannical power which may be necessary for its maintenance.

Observations of a somewhat similar nature are

applicable to other classes of the French population. Many of the tradesmen and merchants, as well as of the numerous bodies of commissaries and contractors grown rich by war, had become landed proprietors. These classes in general had participated in the early movements of the Revolution. They had indeed generally shrunk from its horrors; but they had associated their pride, their quiet, almost their moral character, with its success, by extensive purchases of confiscated land. These feelings were not to be satisfied by any assurances, however solemn and repeated, or however sincere, that the sales of national property were to be inviolable. The necessity of such assurance continually reminded them of the odiousness of their acquisitions, and of the light in which the acquirers were considered by the government. Their property was to be spared as an evil, incorrigible from its magnitude. What they must have desired, was a government from whom no such assurances could have been necessary.

The middle classes in cities were precisely those who had been formerly humbled, mortified, and exasperated by the privileges of the nobility, — for whom the Revolution was a triumph over those who, in the daily intercourse of life, treated them with constant disdain, — and whom that Revolution raised to the vacant place of these deposed chiefs. The vanity of that numerous, intelligent, and active part of the community — merchants, bankers, manufacturers, tradesmen, lawyers, attorneys, physicians, surgeons, artists, actors, men of letters — had been humbled by the monarchy, and had triumphed in the Revolution: they rushed into the stations which the gentry — emigrant, beggared, or proscribed — could no longer fill: the whole government fell into their hands.

Buonaparte's nobility was an institution framed to secure the triumph of all these vanities, and to provide against the possibility of a second humiliation. It was a body composed of a Revolutionary aristo-

cracy, with some of the ancient nobility, — either rewarded for their services to the Revolution, by its highest dignities, or compelled to lend lustre to it, by accepting in it secondary ranks, with titles inferior to their own, — and with many lawyers, men of letters, merchants, physicians, &c., who often receive inferior marks of honour in England, but whom the ancient system of the French monarchy had rigorously excluded from such distinctions. The military principle predominated, not only from the nature of the government, but because military distinction was the purest that was earned during the Revolution. The Legion of Honour spread the same principle through the whole army, which probably contained six-and-thirty thousand out of the forty thousand who composed the order. The whole of these institutions was an array of new against old vanities, — of that of the former roturiers against that of the former nobility. The new knights and nobles were daily reminded by their badges, or titles, of their interest to resist the re-establishment of a system which would have perpetuated their humiliation. The real operation of these causes was visible during the short reign of Louis XVIII. Military men, indeed, had the courage to display their decorations, and to avow their titles: but most civilians were ashamed, or afraid, to use their new names of dignity; they were conveyed, if at all, in a subdued voice, almost in a whisper; they were considered as extremely unfashionable and vulgar. Talleyrand renounced his title of Prince of Beneventum; and Massena's resumption of his dignity of Prince was regarded as an act of audacity, if not of intentional defiance.

From these middle classes were chosen another body, who were necessarily attached to the Revolutionary government, — the immense body of civil officers who were placed in all the countries directly or indirectly subject to France, — in Italy, in Germany, in Poland, in Holland, in the Netherlands, — for the

purposes of administration of finance, and of late to enforce the vain prohibition of commerce with England. These were all thrown back on France by the peace. They had no hope of employment: their gratitude, their resentment, and their expectations bound them to the fortune of Napoleon.

The number of persons in France interested, directly or indirectly, in the sale of confiscated property — by original purchase, by some part in the successive transfers, by mortgage, or by expectancy, — has been computed to be ten millions. This must be a great exaggeration: but one half of that number would be more than sufficient to give colour to the general sentiment. Though the lands of the Church and the Crown were never regarded in the same invidious light with those of private owners, yet the whole mass of confiscation was held together by its Revolutionary origin: the possessors of the most odious part were considered as the outposts and advanced guards of the rest. The purchasers of small lots were peasants; those of considerable estates were the better classes of the inhabitants of cities. Yet, in spite of the powerful causes which attached these last to the Revolution, it is certain, that among the class called "*La bonne bourgeoisie*" are to be found the greatest number of those who approved the restoration of the Bourbons as the means of security and quiet. They were weary of Revolution, and they dreaded confusion: but they are inert and timid, and almost as little qualified to defend a throne as they are disposed to overthrow it. Unfortunately, their voice, of great weight in the administration of regular governments, is scarcely heard in convulsions. They are destined to stoop to the bold; — too often, though with vain sorrow and indignation, to crouch under the yoke of the guilty and the desperate.

The populace of great towns (a most important constituent part of a free community, when the union of liberal institutions, with a vigorous authority, pro-

vides both a vent for their sentiments, and a curb on their violence), have, throughout the French Revolution, showed at once all the varieties and excesses of plebeian passions, and all the peculiarities of the French national character in their most exaggerated state. The love of show, or of change, — the rage for liberty or slavery, for war or for peace, soon wearing itself out into disgust and weariness, — the idolatrous worship of demagogues, soon abandoned, and at last cruelly persecuted, — the envy of wealth, or the servile homage paid to it, — all these, in every age, in every place, from Athens to Paris, have characterised a populace not educated by habits of reverence for the laws, or bound by ties of character and palpable interest to the other classes of a free commonwealth. When the Parisian mob were restrained by a strong government, and compelled to renounce their democratic orgies, they became proud of conquest, — proud of the splendour of their despotism, — proud of the magnificence of its exhibitions and its monuments. Men may be so brutalised as to be proud of their chains. That sort of interest in public concerns, which the poor, in their intervals of idleness, and especially when they are met together, feel perhaps more strongly than other classes more constantly occupied with prudential cares, overflowed into new channels. They applauded a general or a tyrant, as they had applauded Robespierre, and worshipped Marat. They applauded the triumphal entry of a foreign army within their walls as a grand show; and they huzzaed the victorious sovereigns, as they would have celebrated the triumph of a French general. The return of the Bourbons was a novelty, and a sight, which, as such, might amuse them for a day; but the establishment of a pacific and frugal government, with an infirm monarch and a gloomy court, without sights or donatives, and the cessation of the gigantic works constructed to adorn Paris, were sure enough to alienate the Parisian populace.

There was neither vigour to overawe them,—nor brilliancy to intoxicate them,—nor foreign enterprise to divert their attention.

Among the separate parties into which every people is divided, the Protestants are to be regarded as a body of no small importance in France. Their numbers were rated at between two and three millions; but their importance was not to be estimated by their numerical strength. Their identity of interest,—their habits of concert,—their common wrongs and resentments,—gave them far more strength than a much larger number of a secure, lazy, and dispirited majority. It was, generally speaking, impossible that French Protestants should wish well to the family of Louis XIV., peculiarly supported as it was by the Catholic party. The lenity with which they had long been treated, was ascribed more to the liberality of the age than that of the Government. Till the year 1788, even their marriages and their inheritances had depended more upon the connivance of the tribunals, than upon the sanction of the law. The petty vexations, and ineffectual persecution of systematic exclusion from public offices, and the consequent degradation of their body in public opinion, long survived the detestable but effectual persecution which had been carried on by missionary dragoons, and which had benevolently left them the choice to be hypocrites, or exiles, or galley-slaves. The Revolution first gave them a secure and effective equality with the Catholics, and a real admission into civil office. It is to be feared that they may have sometimes exulted over the sufferings of the Catholic Church, and thereby contracted some part of the depravity of their ancient persecutors. But it cannot be doubted that they were generally attached to the Revolution, and to governments founded on it.

The same observations may be applied, without repetition, to other sects of Dissidents. Of all the lessons of history, there is none more evident in itself,

and more uniformly neglected by governments, than that persecutions, disabilities, exclusions, — all systematic wrong to great bodies of citizens, — are sooner or later punished; though the punishment often falls on individuals, who are not only innocent, but who may have had the merit of labouring to repair the wrong.

The voluntary associations which have led or influenced the people during the Revolution, are a very material object in a review like the present. The very numerous body who, as Jacobins or Terrorists, had participated in the atrocities of 1793 and 1794, had, in the exercise of tyranny, sufficiently unlearned the crude notions of liberty with which they had set out. But they all required a government established on Revolutionary foundations. They all took refuge under Buonaparte's authority. The more base accepted clandestine pensions or insignificant places: Barrere wrote slavish paragraphs at Paris; Tallien was provided for by an obscure or a nominal consulship in Spain. Fouché, who conducted this part of the system, thought the removal of an active Jacobin to a province cheaply purchased by five hundred a year. Fouché himself, one of the most atrocious of the Terrorists, had been gradually formed into a good administrator under a civilised despotism, — regardless indeed of forms, but paying considerable respect to the substance, and especially to the appearance of justice, — never shrinking from what was necessary to crush a formidable enemy, but carefully avoiding wanton cruelty and unnecessary evil. His administration, during the earlier and better part of Napoleon's government, had so much repaired the faults of his former life, that the appointment of Savary to the police was one of the most alarming acts of the internal policy during the violent period which followed the invasion of Spain.

At the head of this sort of persons, not indeed in guilt, but in the conspicuous nature of the act in

which they had participated, were the Regicides. The execution of Louis XVI. being both unjust and illegal, was unquestionably an atrocious murder: but it would argue great bigotry and ignorance of human nature, not to be aware, that many who took a share in it must have viewed it in a directly opposite light. Mr. Hume himself, with all his passion for monarchy, admits that Cromwell probably considered his share in the death of Charles I. as one of his most distinguished merits. Some of those who voted for the death of Louis XVI. have proved that they acted only from erroneous judgment, by the decisive evidence of a virtuous life. One of them perished in Guiana, the victim of an attempt to restore the Royal Family. But though among the hundreds who voted for the death of that unfortunate Prince, there might be seen every shade of morality from the blackest depravity to the very confines of purity — at least in sentiment, it was impossible that any of them could be contemplated without horror by the brothers and daughter of the murdered Monarch. Nor would it be less vain to expect that the objects of this hatred should fail to support those Revolutionary authorities, which secured them from punishment, — which covered them from contempt by station and opulence, — and which compelled the monarchs of Europe to receive them into their palaces as ambassadors. They might be — the far greater part of them certainly had become — indifferent to liberty — perhaps partial to that exercise of unlimited power to which they had been accustomed under what they called a "free" government: but they could not be indifferent in their dislike of a government, under which their very best condition was that of pardoned criminals, whose criminality was the more odious on account of the sad necessity which made it pardoned. All the Terrorists, and almost all the Regicides, had accordingly accepted emoluments and honours from Napoleon, and were eager to support his authority as

a Revolutionary despotism, strong enough to protect them from general unpopularity, and to insure them against the vengeance or the humiliating mercy of a Bourbon government.

Another party of Revolutionists had committed great errors in the beginning, which co-operated with the alternate obstinacy and feebleness of the Counter-revolutionists, to produce all the evils which we feel and fear, and which can only be excused by their own inexperience in legislation, and by the prevalence of erroneous opinions, at that period, throughout the most enlightened part of Europe. These were the best leaders of the Constituent Assembly, who never relinquished the cause of liberty, nor disgraced it by submissions to tyranny, or participation in guilt.

The best representative of this small class, is M. de La Fayette, a man of the purest honour in private life, who has devoted himself to the defence of liberty from his earliest youth. He may have committed some mistakes in opinion; but his heart has always been worthy of the friend of Washington and of Fox. In due time the world will see how victoriously he refutes the charges against him of misconduct towards the Royal Family, when the palace of Versailles was attacked by the mob, and when the King escaped to Varennes. Having hazarded his life to preserve Louis XVI., he was imprisoned in various dungeons, by Powers, who at the same time released Regicides. His wife fell a victim to her conjugal heroism. His liberty was obtained by Buonaparte, who paid court to him during the short period of apparent liberality and moderation which opened his political career. M. de La Fayette repaid him, by faithful counsel; and when he saw his rapid strides towards arbitrary power, he terminated all correspondence with him by a letter, which breathes the calm dignity of constant and intrepid virtue. In the choice of evils, he considered the prejudices of the Court and the Nobility as more capable of being reconciled with liberty, than

the power of an army. After a long absence from courts, he appeared at the levee of Monsieur, on his entry into Paris; and was received with a slight,—not justified by his character, nor by his rank—more important than character in the estimate of palaces. He returned to his retirement, far from courts or conspiracies, with a reputation for purity and firmness, which, if it had been less rare among French leaders, would have secured the liberty of that great nation, and placed her fame on better foundations than those of mere military genius and success.

This party, whose principles are decisively favourable to a limited monarchy, and indeed to the general outlines of the institutions of Great Britain, had some strength among the reasoners of the capital, but represented no interest and no opinion in the country at large. Whatever popularity they latterly appeared to possess, arose but too probably from the momentary concurrence, in opposition to the Court, of those who were really their most irreconcileable enemies,—the discontented Revolutionists and concealed Napoleonists. During the late short pause of restriction on the press, they availed themselves of the half liberty of publication which then existed, to employ the only arms in which they were formidable,—those of argument and eloquence. The pamphlets of M. Benjamin Constant were by far the most distinguished of those which they produced; and he may be considered as the literary representative of a party, which their enemies, as well as their friends, called the "Liberal," who were hostile to Buonaparte and to military power, friendly to the general principles of the constitution established by Louis XVIII., though disapproving some of its parts, and seriously distrusting the spirit in which it was executed, and the maxims prevalent at Court. M. Constant, who had been expelled from the *Tribunat*, and in effect exiled from France, by Buonaparte, began an attack on him before the Allies had crossed the Rhine, and

continued it till after his march from Lyons. He is unquestionably the first political writer of the Continent, and apparently the ablest man in France. His first Essay, that on Conquest, is a most ingenious development of the principle, that a system of war and conquest, suitable to the condition of barbarians, is so much at variance with the habits and pursuits of civilised, commercial, and luxurious nations, that it cannot be long-lived in such an age as ours. If the position be limited to those rapid and extensive conquests which tend towards universal monarchy, and if the tendency in human affairs to resist them be stated only as of great force, and almost sure within no long time of checking their progress, the doctrine of M. Constant will be generally acknowledged to be true. With the comprehensive views, and the brilliant poignancy of Montesquieu, he unites some of the defects of that great writer. Like him, his mind is too systematical for the irregular variety of human affairs; and he sacrifices too many of those exceptions and limitations, which political reasonings require, to the pointed sentences which compose his nervous and brilliant style. His answer to the Abbé Montesquieu's foolish plan of restricting the press, is a model of polemical politics, uniting English solidity and strength with French urbanity. His tract on Ministerial Responsibility, with some errors (though surprisingly few) on English details, is an admirable discussion of one of the most important institutions of a free government, and, though founded on English practice, would convey instruction to most of those who have best studied the English constitution. We have said thus much of these masterly productions, because we consider them as the only specimens of the Parisian press, during its semi-emancipation, which deserve the attention of political philosophers, and of the friends of true liberty, in all countries. In times of more calm, we should have thought a fuller account of their contents, and a free discussion of their

faults, due to the eminent abilities of the author. At present we mention them, chiefly because they exhibit, pretty fairly, the opinions of the liberal party in that country.

But, not to dwell longer on this little fraternity (who are too enlightened and conscientious to be of importance in the shocks of faction, and of whom we have spoken more from esteem for their character, than from an opinion of their political influence), it will be already apparent to our readers, that many of the most numerous and guiding classes in the newly arranged community of France, were bound, by strong ties of interest and pride, to a Revolutionary government, however little they might be qualified or sincerely disposed for a free constitution, — which they struggled to confound with the former; that these dispositions among the civil classes formed one great source of danger to the administration of the Bourbons; and that they now constitute a material part of the strength of Napoleon. To them he appeals in his Proclamations, when he speaks of "a new dynasty founded on the same bases with the new interests and new institutions which owe their rise to the Revolution." To them he appeals, though more covertly, in his professions of zeal for the dignity of the people, and of hostility to feudal nobility, and monarchy by Divine right.

It is natural to inquire how the conscription, and the prodigious expenditure of human life in the campaigns of Spain and Russia, were not of themselves sufficient to make the government of Napoleon detested by the great majority of the French people. But it is a very melancholy truth, that the body of a people may be gradually so habituated to war, that their habits and expectations are at last so adapted to its demand for men, and its waste of life, that they become almost insensible to its evils, and require long discipline to reinspire them with a relish for the blessings of peace, and a capacity for the virtues of

industry. The complaint is least when the evil is greatest:—it is as difficult to teach such a people the value of peace, as it would be to reclaim a drunkard, or to subject a robber to patient labour.

A conscription is, under pretence of equality, the most unequal of all laws; because it assumes that military service is equally easy to all classes and ranks of men. Accordingly, it always produces pecuniary commutation in the sedentary and educated classes. To them in many of the towns of France it was an oppressive and grievous tax. But to the majority of the people, always accustomed to military service, the life of a soldier became perhaps more agreeable than any other. Families even considered it as a means of provision for their children; each parent labouring to persuade himself that his children would be among those who should have the fortune to survive. Long and constant wars created a regular demand for men, to which the principle of population adapted itself. An army which had conquered and plundered Europe, and in which a private soldier might reasonably enough hope to be a marshal or a prince, had more allurements, and not more repulsive qualities, than many of those odious, disgusting, unwholesome, or perilous occupations, which in the common course of society are always amply supplied. The habit of war unfortunately perpetuates itself: and this moral effect is a far greater evil than the mere destruction of life. Whatever may be the justness of these speculations, certain it is, that the travellers who lately visited France, neither found the conscription so unpopular, nor the decay of male population so perceptible, as plausible and confident statements had led them to expect.

It is probable that among the majority of the French (excluding the army), the restored Bourbons gained less popularity by abolishing the conscription, than they lost by the cession of all the conquests of France. This fact affords a most important warning

of the tremendous dangers to which civilised nations expose their character by long war. To say that liberty cannot survive it, is saying little:—liberty is one of the luxuries which only a few nations seem destined to enjoy;—and they only for a short period. It is not only fatal to the refinements and ornaments of civilised life:—its long continuance must inevitably destroy even that degree (moderate as it is) of order and security which prevails even in the pure monarchies of Europe, and distinguishes them above all other societies ancient or modern. It is vain to inveigh against the people of France for delighting in war, for exulting in conquest, and for being exasperated and mortified by renouncing those vast acquisitions. These deplorable consequences arise from an excess of the noblest and most necessary principles in the character of a nation, acted upon by habits of arms, and "cursed with every granted prayer," during years of victory and conquest. No nation could endure such a trial. Doubtless those nations who have the most liberty, the most intelligence, the most virtue,—who possess in the highest degree all the constituents of the most perfect civilisation, will resist it the longest. But, let us not deceive ourselves,—long war renders all these blessings impossible: it dissolves all the civil and pacific virtues; it leaves no calm for the cultivation of reason; and by substituting attachment to leaders, instead of reverence for laws, it destroys liberty, the parent of intelligence and of virtue.

The French Revolution has strongly confirmed the lesson taught by the history of all ages, that while political divisions excite the activity of genius, and teach honour in enmity, as well as fidelity in attachment, the excess of civil confusion and convulsion produces diametrically opposite effects,—subjects society to force, instead of mind,—renders its distinctions the prey of boldness and atrocity, instead of being the prize of talent,—and concentrates the thoughts and feelings of every individual upon himself,—his own

sufferings and fears. Whatever beginnings of such an unhappy state may be observed in France, — whatever tendency it may have had to dispose the people to a light transfer of allegiance, and an undistinguishing profession of attachment, — it is more useful to consider them as the results of these general causes than as vices peculiar to that great nation.

To this we must add, before we conclude our cursory survey, that frequent changes of government, however arising, promote a disposition to acquiesce in change. No people can long preserve the enthusiasm, which first impels them to take an active part in change. Its frequency at last teaches them patiently to bear it. They become indifferent to governments and sovereigns. They are spectators of revolutions, instead of actors in them. They are a prey to be fought for by the hardy and bold, and are generally disposed of by an army. In this state of things, revolutions become bloodless, not from the humanity, but from the indifference of a people. Perhaps it may be true, though it will appear paradoxical to many, that such revolutions as those of England and America, conducted with such a regard for moderation and humanity, and even with such respect for established authorities and institutions, independently of their necessity for the preservation of liberty, may even have a tendency to strengthen, instead of weakening, the frame of the commonwealth. The example of reverence for justice, — of caution in touching ancient institutions, — of not innovating, beyond the necessities of the case, even in a season of violence and anger, may impress on the minds of men those conservative principles of society, more deeply and strongly, than the most uninterrupted observation of them in the ordinary course of quiet and regular government.

ON

THE RIGHT

OF

PARLIAMENTARY SUFFRAGE.*

WHAT mode of representation is most likely to secure the liberty, and consequently the happiness, of a community circumstanced like the people of Great Britain? On the elementary part of this great question, it will be sufficient to remind the reader of a few undisputed truths. The object of government, is security against wrong. Most civilised governments, tolerably secure their subjects against wrong from each other. But to secure them, by laws, against wrong from the government itself, is a problem of a far more difficult sort, which few nations have attempted to solve, — and of which it is not so much as pretended that, since the beginning of history, more than one or two great states have approached the solution. It will be universally acknowledged, that this approximation has never been effected by any other means than that of a legislative assembly, chosen by some considerable portion of the people.

The direct object of a popular representation is, that one, at least, of the bodies exercising the legislative power being dependent on the people by election, should have the strongest inducement to guard their interests, and to maintain their rights. For this pur-

* From the Edinburgh Review, vol. xxxi. p. 174. — ED.

pose, it is not sufficient, that it should have the same general interests with the people; for every government has, in truth, the same interests with its subjects. It is necessary that the more direct and palpable interest, arising from election, should be superadded. In every legislative senate, the modes of appointment ought to be such as to secure the nomination of members the best qualified, and the most disposed, to make laws conducive to the well-being of the whole community. In a representative assembly this condition, though absolutely necessary, is not of itself sufficient.

To understand the principles of its composition thoroughly, we must divide the people into classes, and examine the variety of local and professional interests of which the whole is composed. Each of these classes must be represented by persons who will guard its peculiar interest, whether that interest arises from inhabiting the same district, or pursuing the same occupation, — such as traffic, or husbandry, or the useful or ornamental arts. The fidelity and zeal of such representatives, are to be secured by every provision which, to a sense of common interest, can superadd a fellow-feeling with their constituents. Nor is this all: in a great state, even that part of the public interest which is common to all classes, is composed of a great variety of branches. A statesman should indeed have a comprehensive view of the whole: but no one man can be skilled in all the particulars. The same education, and the same pursuits, which qualify men to understand and regulate some branches, disqualify them for others. The representative assembly must therefore contain, some members peculiarly qualified for discussions of the constitution and the laws, — others for those of foreign policy, — some for those of the respective interests of agriculture, commerce, and manufactures, — some for those of military affairs by sea and land, — and some also who are conversant with the colonies and distant possessions of a great empire. It would be a mistake

to suppose that the place of such representatives could be supplied by witnesses examined on each particular subject. Both are not more than sufficient;—skilful witnesses occasionally, for the most minute information,—skilful representatives continually, to discover and conduct evidence, and to enforce and illustrate the matters belonging to their department with the weight of those who speak on a footing of equality.

It is obvious, that as long as this composition is insured, it is for the present purpose a matter of secondary importance whether it be effected by direct or indirect means. To be a faithful representative, it is necessary that such an assembly should be numerous,—that it should learn, from experience, the movements that agitate multitudes,—and that it should be susceptible, in no small degree, of the action of those causes which sway the thoughts and feelings of assemblies of the people. For the same reason, among others, it is expedient that its proceedings should be public, and the reasonings on which they are founded, submitted to the judgment of mankind. These democratical elements are indeed to be tempered and restrained by such contrivances as may be necessary to maintain the order and independence of deliberation: but, without them, no assembly, however elected, can truly represent a people.

Among the objects of representation, two may, in an especial manner, deserve observation:—the qualifications for making good laws, and those for resisting oppression.

Now, the capacity of an assembly to make good laws, evidently depends on the quantity of skill and information of every kind which it possesses. But it seems to be advantageous that it should contain a large proportion of one body of a more neutral and inactive character,—not indeed to propose much, but to mediate or arbitrate in the differences between the more busy classes, from whom important propositions are to be expected. The suggestions of every man re-

lating to his province, have doubtless a peculiar value: but most men imbibe prejudices with their knowledge; and, in the struggle of various classes for their conflicting interests, the best chance for an approach to right decision, lies in an appeal to the largest body of well-educated men, of leisure, large property, temperate character, and who are impartial on more subjects than any other class of men. An ascendancy, therefore, of landed proprietors must be considered, on the whole, as a beneficial circumstance in a representative body.

For resistance to oppression, it is peculiarly necessary that the lower, and, in some places, the lowest classes, should possess the right of suffrage. Their rights would otherwise be less protected than those of any other class; for some individuals of every other class, would generally find admittance into the legislature; or, at least, there is no other class which is not connected with some of its members. But in the uneducated classes, none can either sit in a representative assembly, or be connected on an equal footing with its members. The right of suffrage, therefore, is the only means by which they can make their voice heard in its deliberations. They also often send to a representative assembly, members whose character is an important element in its composition, — men of popular talents, principles, and feelings, — quick in suspecting oppression, — bold in resisting it, — not thinking favourably of the powerful, — listening, almost with credulity to the complaints of the humble and the feeble, — and impelled by ambition, where they are not prompted by generosity, to be the champions of the defenceless.

In all political institutions, it is a fortunate circumstance when legal power is bestowed on those who already possess a natural influence and ascendant over their fellow-citizens. Wherever, indeed, the circumstances of society, and the appointments of law, are in this respect completely at variance, submission can

hardly be maintained without the odious and precarious means of force and fear. But in a representative assembly, which exercises directly no power, and of which the members are too numerous to derive much individual consequence from their stations, the security and importance of the body, more than in any other case, depend on the natural influence of those who compose it. In this respect, talent and skill, besides their direct utility, have a secondary value of no small importance. Together with the other circumstances which command respect or attachment among men, — with popularity, with fame, with property, with liberal education and condition, — they form a body of strength, which no law could give or take away. As far as an assembly is deprived of any of these natural principles of authority, so far it is weakened both for the purpose of resisting the usurpations of government and of maintaining the order of society.

An elective system tends also, in other material respects, to secure that free government, of which it is the most essential member. As it calls some of almost every class of men to share in legislative power, and many of all classes to exercise the highest franchises, it engages the pride, the honour, and the private interest as well as the generosity, of every part of the community, in defence of the constitution. Every noble sentiment, every reasonable consideration, every petty vanity, and every contemptible folly, are made to contribute towards its security. The performance of some of its functions becomes part of the ordinary habits of bodies of men numerous enough to spread their feelings over great part of a nation.

Popular representation thus, in various ways, tends to make governments good, and to make good governments secure: — these are its primary advantages. But free, that is just, governments, tend to make men more intelligent, more honest, more brave, more generous. Liberty is the parent of genius, — the

nurse of reason, — the inspirer of that valour which makes nations secure and powerful, — the incentive to that activity and enterprise to which they owe wealth and splendour, — the school of those principles of humanity and justice which bestow an unspeakably greater happiness, than any of the outward advantages of which they are the chief sources, and the sole guardians.

These effects of free government on the character of a people, may, in one sense, be called indirect and secondary; but they are not the less to be considered as among its greatest blessings: and it is scarcely necessary to observe, how much they tend to enlarge and secure the liberty from which they spring. But their effect will perhaps be better shown by a more particular view of the influence of popular elections on the character of the different classes of the community.

To begin with the higher classes: — the English nobility, who are blended with the gentry by imperceptible shades, are the most opulent and powerful order of men in Europe. They are comparatively a small body, who unite great legal privileges with ample possessions, and names both of recent renown and historical glory. They have attained almost all the objects of human pursuit. They are surrounded by every circumstance which might seem likely to fill them with arrogance, — to teach them to scorn their inferiors, and which might naturally be supposed to extinguish enterprise, and to lull every power of the understanding to sleep. What has preserved their character? What makes them capable of serving or adorning their country as orators and poets, men of letters and men of business, in as great a proportion as in any equal number of the best educated classes of their countrymen? Surely only one solution can be given of these phenomena, peculiar to our own country.* Where all the ordinary incentives to

* To be quite correct, we must remind the reader, that we

action are withdrawn, a free constitution excites it, by presenting political power as a new object of pursuit. By rendering that power in a great degree dependent on popular favour, it compels the highest to treat their fellow-creatures with decency and courtesy, and disposes the best of them to feel, that inferiors in station may be superiors in worth, as they are equals in right. Hence chiefly arises that useful preference for country life, which distinguishes the English gentry from that of other nations. In despotic countries they flock to the court, where all their hopes are fixed: but here, as they have much to hope from the people, they must cultivate the esteem, and even court the favour of their own natural dependants. They are quickened in the pursuit of ambition, by the rivalship of that enterprising talent, which is stimulated by more urgent motives. These dispositions and manners have become, in some measure, independent of the causes which originally produced them, and extend to many on whom these causes could have little operation. In a great body, we must allow for every variety of form and degree. It is sufficient that a system of extensively popular representation has, in a course of time, produced this general character, and that the English democracy is the true preservative of the talents and virtues of the aristocracy.

The effects of the elective franchise upon the humbler classes, are, if possible, still more obvious and important. By it the peasant is taught to "venerate himself as a man"—to employ his thoughts, at least occasionally, upon high matters,—to meditate on the

speak of the character of the whole body, composed, as it is, of a small number. In a body like the French noblesse, amounting perhaps to a hundred thousand, many of whom were acted upon by the strongest stimulants of necessity, and, in a country of such diffused intelligence as France, it would have been a miracle if many had not risen to eminence in the state, and in letters, as well as in their natural profession of arms.

same subjects with the wise and the great, — to enlarge his feelings beyond the circle of his narrow concerns, — to sympathise, however irregularly, with great bodies of his fellow-creatures, and sometimes to do acts which he may regard as contributing directly to the welfare of his country. Much of this good tendency is doubtless counteracted by other circumstances. The outward form is often ridiculous or odious. The judgments of the multitude are never exact, and their feelings often grossly misapplied: but, after all possible deductions, great benefits must remain. The important object is, that they should think and feel, — that they should contemplate extensive consequences as capable of arising from their own actions, and thus gradually become conscious of the moral dignity of their nature.

Among the very lowest classes, where the disorders of elections are the most offensive, the moral importance of the elective franchise is, in some respects, the greatest. As individuals, they feel themselves of no consequence; — hence, in part, arises their love of numerous assemblies, — the only scenes in which the poor feel their importance. Brought together for elections, their tumultuary disposition, which is little else than a desire to display their short-lived consequence, is gratified at the expense of inconsiderable evils. It is useful that the pride of the highest should be made occasionally to bend before them, — that the greatest objects of ambition should be partly at their disposal: it teaches them to feel that *they* also are men. It is to the exercise of this franchise, by some bodies of our lowest classes, that we are to ascribe that sense of equality, — that jealousy of right, — that grave independence, and calm pride, which has been observed by foreigners as marking the deportment of Englishmen.

By thus laying open some of the particular modes in which representation produces its advantages to the whole community, and to its separate classes, we

hope that we have contributed somewhat to the right decision of the practical question which now presents itself to our view. Systems of election may be of very various kinds. The right of suffrage may be limited, or universal; it may be secretly, or openly exercised; the representatives may be directly, or indirectly, chosen by the people; and where a qualification is necessary, it may be uniform, or it may vary in different places. A variety of rights of suffrage is the principle of the English representation. In the reign of Edward the First, as much as at the present moment, the members for counties were chosen by freeholders, and those for cities and towns by freemen, burgage tenants, householders or freeholders. Now, we prefer this general principle of our representation to any uniform right of suffrage; though we think that, in the present state of things, there are many particulars which, according to that principle, ought to be amended.

Our reasons for this preference are shortly these:—every uniform system which seriously differs from universal suffrage, must be founded on such a qualification, as to take away the elective franchise from those portions of the inferior classes who now enjoy it. Even the condition of paying direct taxes would disfranchise many. After what we have already said, on the general subject of representation, it is needless for us to add, that we should consider such a disfranchisement as a most pernicious mutilation of the representative system. It has already been seen, how much, in our opinion, the proper composition of the House of Commons, the justice of the government and the morality of the people, depend upon the elections which would be thus sacrificed.

This tendency of an uniform qualification, is visible in the new French system. The qualification for the electors, is the annual payment of direct taxes to the amount of about 12*l.* When the wealth of the two countries is compared, it will be apparent that, in this

country, such a system would be thought a mere aristocracy. In France, the result is a body of one hundred thousand electors*: and in the situation and temper of the French nation, such a scheme of representation may be eligible. But we mention it only as an example, that every uniform qualification, which is not altogether illusory, must incline towards independent property, as being the only ground on which it can rest. The reform of Cromwell had the same aristocratical character, though in a far less degree. It nearly excluded what is called the "populace;" and, for that reason, is commended by the most sagacious† of our Tory writers. An uniform qualification, in short, must be so high as to exclude true popular election, or so low as to be liable to most of the objections which we shall presently offer against universal suffrage. It seems difficult to conceive how it could be so adjusted, as not either to impair the spirit of liberty, or to expose the quiet of society to continual hazard.

Our next objection to uniformity is, that it exposes the difference between the proprietors and the indigent, in a way offensive and degrading to the feelings of the latter. The difference itself is indeed real, and cannot be removed: but in our present system, it is disguised under a great variety of usages; it is far from uniformly regulating the franchise; and, even where it does, this invidious distinction is not held out in its naked form. It is something, also, that the system of various rights does not constantly thrust forward that qualification of property which, in its undisguised state, may be thought to teach the people too exclusive a regard for wealth.

This variety, by giving a very great weight to property in some elections, enables us safely to allow

* The population of France is now [1818, Ed.] estimated at twenty-nine millions and a half.

† Clarendon, Hume, &c.

an almost unbounded scope to popular feeling in others. While some have fallen under the influence of a few great proprietors, others border on universal suffrage. All the intermediate varieties, and all their possible combinations, find their place. Let the reader seriously reflect how all the sorts of men, who are necessary component parts of a good House of Commons, could on any other scheme find their way to it. We have already sufficiently animadverted on the mischief of excluding popular leaders. Would there be no mischief in excluding those important classes of men, whose character unfits them for success in a canvass, or whose fortune may be unequal to the expense of a contest? A representative assembly, elected by a low uniform qualification, would fluctuate between country gentlemen and demagogues: —elected on a high qualification, it would probably exhibit an unequal contest between landholders and courtiers. All other interests would, on either system, be unprotected: no other class would contribute its contingent of skill and knowledge to aid the deliberations of the legislature.

The founders of new commonwealths must, we confess, act upon some uniform principle. A builder can seldom imitate, with success, all the fantastic, but picturesque and comfortable irregularities, of an old mansion, which through a course of ages has been repaired, enlarged, and altered, according to the pleasure of various owners. This is one of the many disadvantages attendant on the lawgivers of infant states. Something, perhaps, by great skill and caution, they might do; but their wisdom is most shown, after guarding the great principles of liberty, by leaving time to do the rest.

Though we are satisfied, by the above and by many other considerations, that we ought not to exchange our diversified elections for any general qualification, we certainly consider universal suffrage as beyond calculation more mischievous than any other uniform

right. The reasons which make it important to liberty, that the elective franchise should be exercised by large bodies of the lower classes, do not in the least degree require that it should be conferred on them all. It is necessary to their security from oppression, that the whole class should have some representatives: but as their interest is every where the same, representatives elected by one body of them are necessarily the guardians of the rights of all. The great object of representation for them, is to be protected against violence and cruelty. Sympathy with suffering, and indignation against cruelty, are easily excited in numerous assemblies, and must either be felt or assumed by all their members. Popular elections generally ensure the return of some men, who shrink from no appeal, however invidious, on behalf of the oppressed. We must again repeat, that we consider such men as invaluable members of a House of Commons; — perhaps their number is at present too small. What we now maintain is, that, though elected by one place, they are in truth the representatives of the same sort of people in other places. Their number must be limited, unless we are willing to exclude other interests, and to sacrifice other most important objects of representation.

The exercise of the elective franchise by some of the labouring classes, betters the character, raises the spirit, and enhances the consequence of all. An English farmer or artisan is more high-spirited and independent, than the same classes in despotic countries: but nobody has ever observed that there is in England a like difference between the husbandman and mechanic, who have votes, and who have not. The exclusion of the class degrades the whole: but the admission of a part bestows on the whole a sense of importance, and a hold on the estimation of their superiors. It must be admitted, that a small infusion of popular election would not produce these effects: whatever might seem to be the accidental privilege

of a few, would have no influence on the rank of their fellows. It must be considerable, and,—what is perhaps still more necessary,—it must be conspicuous, and forced on the attention by the circumstances which excite the feelings, and strike the imagination of mankind. The value of external dignity is not altogether confined to kings or senates. The people also have their majesty; and they too ought to display their importance in the exercise of their rights.

The question is, whether all interests will be protected, where the representatives are chosen by all men, or where they are elected by considerable portions only, of all classes of men. This question will perhaps be more clearly answered by setting out from examples, than from general reasonings. If we suppose Ireland to be an independent state, governed by its former House of Commons, it will at once be admitted, that no shadow of just government existed, where the legislature were the enemies, instead of being the protectors, of the Catholics, who formed a great class in the community. That this evil was most cruelly aggravated by the numbers of the oppressed, is true. But, will it be contended, that such a government was unjust, only because the Catholics were a majority? We have only then to suppose the case reversed;—that the Catholics were to assume the whole power, and to retaliate upon the Protestants, by excluding them from all political privilege. Would this be a just or equal government? That will hardly be avowed. But what would be the effect of establishing universal suffrage in Ireland? It would be, to do that in substance, which no man would propose in form. The Catholics, forming four-fifths of the population, would, as far as depends on laws, possess the whole authority of the state. Such a government, instead of protecting all interests, would be founded in hostility to that which is the second interest in numbers, and in many respects the first. The oppressors and the oppressed

would, indeed, change places; — we should have Catholic tyrants, and Protestant slaves: but our only consolation would be, that the island would contain more tyrants, and fewer slaves. If there be persons who believe that majorities have any power over the eternal principles of justice, or that numbers can in the least degree affect the difference between right and wrong, it would be vain for us to argue against those with whom we have no principles in common. To all others it must be apparent, that a representation of *classes* might possibly be so framed as to secure both interests; but that a representation of *numbers* must enslave the Protestant minority.

That the majority of a people may be a tyrant as much as one or a few, is most apparent in the cases where a state is divided, by conspicuous marks, into a permanent majority and minority. Till the principles of toleration be universally felt, as well as acknowledged, religion will form one of these cases. Till reason and morality be far more widely diffused than they are, the outward distinctions of colour and feature will form another, more pernicious, and less capable of remedy. Does any man doubt, that the establishment of universal suffrage, among emancipated slaves, would be only another word for the oppression, if not the destruction, of their former masters? But is slavery itself really more unjust, where the slaves are a majority, than where they are a minority? or may it not be said, on the contrary, that to hold men in slavery is most inexcusable, where society is not built on that unfortunate foundation, — where the supposed loss of their labour would be an inconsiderable evil, and no danger could be pretended from their manumission? Is it not apparent, that the lower the right of suffrage descends in a country, where the whites are the majority, the more cruel would be the oppression of the enslaved minority? An aristocratical legislature might consider, with some impartiality, the disputes of the free and of the servile

labourers; but a body, influenced chiefly by the first of these rival classes, must be the oppressors of the latter.

These, it may be said, are extreme cases;—they are selected for that reason: but the principle which they strikingly illustrate, will, on a very little reflection, be found applicable in some degree to all communities of men.

The labouring classes are in every country a perpetual majority. The diffusion of education will doubtless raise their minds, and throw open prizes for the ambition of a few, which will spread both activity and content among the rest: but in the present state of the population and territory of European countries, the majority of men must earn their subsistence by daily labour. Notwithstanding local differences, persons in this situation have a general resemblance of character, and sameness of interest. Their interest, or what they think their interest, may be at variance with the real or supposed interests of the higher orders. If they are considered as forming, in this respect, one class of society, a share in the representation may be allotted to them, sufficient to protect their interest, compatibly with the equal protection of the interests of all other classes, and regulated by a due regard to all the qualities which are required in a well-composed legislative assembly. But if representation be proportioned to numbers alone, every other interest in society is placed at the disposal of the multitude. No other class can be effectually represented; no other class can have a political security for justice; no other can have any weight in the deliberations of the legislature. No talents, no attainments, but such as recommend men to the favour of the multitude, can have any admission into it. A representation so constituted, would produce the same practical effects, as if every man whose income was above a certain amount, were excluded from the right of voting. It is of little moment to the proprietors,

whether they be disfranchised, or doomed, in every election, to form a hopeless minority.

Nor is this all. A representation, founded on numbers only, would be productive of gross inequality in that very class to which all others are sacrificed. The difference between the people of the country and those of towns, is attended with consequences which no contrivance of law can obviate. Towns are the nursery of political feeling. The frequency of meeting, the warmth of discussion, the variety of pursuit, the rivalship of interest, the opportunities of information, even the fluctuations and extremes of fortune, direct the minds of their inhabitants to public concerns, and render them the seats of republican governments, or the preservers of liberty in monarchies. But if this difference be considerable among educated men, it seems immeasurable when we contemplate its effects on the more numerous classes. Among them, no strong public sentiment can be kept up without numerous meetings. It is chiefly when they are animated by a view of their own strength and numbers, — when they are stimulated by an eloquence suited to their character, — and when the passions of each are strengthened by the like emotions of the multitude which surround him, that the thoughts of such men are directed to subjects so far from their common callings as the concerns of the commonwealth. All these aids are necessarily wanting to the dispersed inhabitants of the country, whose frequent meetings are rendered impossible by distance and poverty, — who have few opportunities of being excited by discussion or declamation, and very imperfect means of correspondence or concert with those at a distance. An agricultural people is generally submissive to the laws, and observant of the ordinary duties of life, but stationary and stagnant, without the enterprise which is the source of improvement, and the public spirit which preserves liberty. If the whole political power of the state, therefore, were thrown into the hands of

the lowest classes, it would be really exercised only by the towns. About two-elevenths of the people of England inhabit towns which have a population of ten thousand souls or upwards. A body so large, strengthened by union, discipline, and spirit, would without difficulty domineer over the lifeless and scattered peasants. In towns, the lower part of the middle classes are sometimes tame; while the lowest class are always susceptible of animation. But the small freeholders, and considerable farmers, acquire an independence from their position, which makes them very capable of public spirit. While the classes below them are incapable of being permanently rendered active elements in any political combination, the dead weight of their formal suffrages would only oppress the independent votes of their superiors. All active talent would, in such a case, fly to the towns, where alone its power could be felt. The choice of the country would be dictated by the cry of the towns, wherever it was thought worth while to take it from the quiet influence of the resident proprietors. Perhaps the only contrivance, which can in any considerable degree remedy the political inferiority of the inhabitants of the country to those of towns, has been adopted in the English constitution, which, while it secures an ascendant of landholders in the legislature, places the disposal of its most honoured and envied seats in the hands of the lowest classes among the agricultural population, who are capable of employing the right of suffrage with spirit and effect.

They who think representation chiefly valuable, because whole nations cannot meet to deliberate in one place, have formed a very low notion of this great improvement. It is not a contrivance for conveniently collecting or blindly executing all the pernicious and unjust resolutions of ignorant multitudes. To correct the faults of democratical government, is a still more important object of representation, than to extend the sphere to which that government may be applied. It

balances the power of the multitude by the influence of other classes: it substitutes skilful lawgivers for those who are utterly incapable of any legislative function; and it continues the trust long enough to guard the legislature from the temporary delusions of the people. By a system of universal suffrage and annual elections, all these temperaments would be destroyed. The effect of a crowded population, in increasing the intensity and activity of the political passions, is extremely accelerated in cities of the first class. The population of London and its environs is nearly equal to that of all other towns in England of or above ten thousand souls. According to the principle of universal suffrage, it would contain about two hundred and fifty thousand electors; and send fifty-five members to Parliament. This electoral army would be occupied for the whole year in election or canvass, or in the endless animosities in which both would be fertile. A hundred candidates for their suffrages would be daily employed in inflaming their passions. No time for deliberation, — no interval of repose in which inflamed passions might subside, could exist. The representatives would naturally be the most daring, and, for their purposes, the ablest of their body. They must lead or overawe the legislature. Every transient delusion, or momentary phrensy of which a multitude is susceptible, must rush with unresisted violence into the representative body. Such a representation would differ in no beneficial respect from the wildest democracy. It would be a democracy clothed in a specious disguise, and armed with more effective instruments of oppression, — but not wiser or more just than the democracies of old, which Hobbes called "an *aristocracy* of orators, sometimes interrupted by the *monarchy* of a single orator."

It may be said that such reasonings suppose the absence of those moral restraints of property and opinion which would temper the exercise of this, as

well as of every other kind of suffrage. Landholders would still influence their tenants, — farmers their labourers, — artisans and manufacturers those whom they employ; — property would still retain its power over those who depend on the proprietor. To this statement we in some respects accede; and on it we build our last and most conclusive argument against universal suffrage.

It is true, that in very quiet times, a multiplication of dependent voters would only augment the influence of wealth. If votes were bestowed on every private soldier, the effect would be only to give a thousand votes to the commanding officer who marched his battalion to the poll. Whenever the people felt little interest in public affairs, the same power would be exercised by every master through his dependants. The traders who employ many labourers in great cities would possess the highest power; the great consumers and landholders would engross the remainder; the rest of the people would be insignificant. As the multitude is composed of those individuals who are most incapable of fixed opinions, and as they are, in their collective capacity, peculiarly alive to present impulse, there is no vice to which they are so liable as inconstancy. Their passions are quickly worn out by their own violence. They become weary of the excesses into which they have been plunged. Lassitude and indifference succeed to their fury, and are proportioned to its violence. They abandon public affairs to any hand disposed to guide them. They give up their favourite measures to reprobation, and their darling leaders to destruction. Their acclamations are often as loud around the scaffold of the demagogue, as around his triumphal car.

Under the elective system, against which we now argue, the opposite evils of too much strengthening wealth, and too much subjecting property to the multitude, are likely, by turns, to prevail. In either case,

it may be observed that the power of the middle classes would be annihilated. Society, on such a system, would exhibit a series of alternate fits of phrensy and lethargy. When the people were naturally disposed to violence, the mode of election would inflame it to madness. When they were too much inclined of themselves to listlessness and apathy, it would lull them to sleep. In these, as in every other respect, it is the reverse of a wisely constituted representation, which is a restraint on the people in times of heat, and a stimulant to their sluggishness when they would otherwise fall into torpor. This even and steady interest in public concerns, is impossible in a scheme which, in every case, would aggravate the predominant excess.

It must never be forgotten, that the whole proprietary body must be in a state of permanent conspiracy against an extreme democracy. They are the natural enemies of a constitution, which grants them no power and no safety. Though property is often borne down by the torrent of popular tyranny, yet it has many chances of prevailing at last. Proprietors have steadiness, vigilance, concert, secrecy, and, if need be, dissimulation. They yield to the storm: they regain their natural ascendant in the calm. Not content with persuading the people to submit to salutary restraints, they usually betray them, by insensible degrees, into absolute submission.

If the commonwealth does not take this road to slavery, there are many paths that lead to that state of perdition. A demagogue seizes on that despotic power for himself, which he for a long time has exercised in the name of his faction; — a victorious general leads his army to enslave their country: and both these candidates for tyranny too often find auxiliaries in those classes of society which are at length brought to regard absolute monarchy as an asylum. Thus, wherever property is not allowed great weight in a free state, it will destroy liberty. The history of

popular clamour, even in England, is enough to show that it is easy sometimes to work the populace into "a sedition for slavery."

These obvious consequences have disposed most advocates of universal suffrage to propose its combination with some other ingredients, by which, they tell us, that the poison will be converted into a remedy. The composition now most in vogue is its union with the Ballot. Before we proceed to the consideration of that proposal, we shall bestow a few words on some other plans which have been adopted or proposed, to render uniform popular election consistent with public quiet. The most remarkable of these are that of Mr. Hume, where the freeholders and the inhabitants assessed to the poor, elect those who are to name the members of the Supreme Council; — that lately proposed in France, where a popular body would propose candidates, from whom a small number of the most considerable proprietors would select the representatives; — and the singular plan of Mr. Horne Tooke, which proposed to give the right of voting to all persons rated to the land-tax or parish-rates at 2*l.* 2*s.* per annum, on condition of their paying to the public 2*l.* 2*s.* at the time of voting; but providing, that if the number of voters in any district fell short of four thousand, every man rated at 20*l.* per annum might give a second vote, on again paying the same sum; and making the same provision, in case of the same failure, for third, fourth, fifth, &c., votes for every additional 100*l.* at which the voter is rated, till the number of four thousand votes for the district should be completed.

This plan of Mr. Tooke is an ingenious stratagem for augmenting the power of wealth, under pretence of bestowing the suffrage almost universally. To that of Mr. Hume it is a decisive objection, that it leaves to the people only those subordinate elections which would excite no interest in their minds, and would consequently fail in attaining one of the principal

objects of popular elections. All schemes for separating the proposition of candidates for public office from the choice of the officers, become in practice a power of nomination in the proposers. It is easy to leave no choice to the electors, by coupling the favoured candidates with none but such as are absolutely ineligible. Yet one reasonable object is common to these projects: — they all aim at subjecting elections to the joint influence of property and popularity. In none of them is overlooked the grand principle of equally securing all orders of men, and interesting all in the maintenance of the constitution. It is possible that any of them might be in some measure effectual; but it would be an act of mere wantonness in us to make the experiment. By that variety of rights of suffrage which seems so fantastic, the English constitution has provided for the union of the principles of property and popularity, in a manner much more effectual than those which the most celebrated theorists have imagined. Of the three, perhaps the least unpromising is that of Mr. Tooke, because it approaches nearest to the forms of public and truly popular elections.

In the system now established in France, where the right of suffrage is confined to those who pay direct taxes amounting to twelve pounds by the year, the object is evidently to vest the whole power in the hands of the middling classes. The Royalists, who are still proprietors of the greatest estates in the kingdom, would have preferred a greater extension of suffrage, in order to multiply the votes of their dependants. But, as the subdivision of forfeited estates has created a numerous body of small landowners, who are deeply interested in maintaining the new institutions, the law, which gives them almost the whole elective power, may on that account be approved as politic. As a general regulation, it is very objectionable.

If we were compelled to confine all elective influence to one order, we must indeed vest it in the

middling classes; both because they possess the largest share of sense and virtue, and because they have the most numerous connexions of interest with the other parts of society. It is right that they should have a preponderating influence, because they are likely to make the best choice. But that is not the sole object of representation; and, if it were, there are not wanting circumstances which render it unfit that they should engross the whole influence. Perhaps there never was a time or country in which the middling classes were of a character so respectable and improving as they are at this day in Great Britain; but it unfortunately happens, that this sound and pure body have more to hope from the favour of Government than any other part of the nation. The higher classes may, if they please, be independent of its influence; the lower are almost below its direct action. On the middling classes, it acts with concentrated and unbroken force. Independent of that local consideration, the virtues of that excellent class are generally of a circumspect nature, and apt to degenerate into timidity. They have little of that political boldness which sometimes belongs to commanding fortune, and often, in too great a degree, to thoughtless poverty. They require encouragement and guidance from higher leaders; and they need excitement from the numbers and even turbulence of their inferiors. The end of representation is not a medium between wealth and numbers, but a combination of the influence of both. It is the result of the separate action of great property, of deliberate opinion, and of popular spirit, on different parts of the political system.

"That principle of representation," said Mr. Fox, "is the best which calls into activity the greatest number of independent votes, and excludes those whose condition takes from them the powers of deliberation." But even this principle, true in general, cannot be universally applied. Many who are neither independent nor capable of deliberation, are at present rightly

vested with the elective franchise, — not because they are qualified to make a good general choice of members, — but because they indirectly contribute to secure the good composition and right conduct of the legislature.

The question of the Ballot remains. On the Ballot the advocates of universal suffrage seem exclusively to rely for the defence of their schemes: without it, they appear tacitly to admit that universal suffrage would be an impracticable and pernicious proposal. But all males in the kingdom, it is said, may annually vote at elections with quiet and independence, if the Ballot enables them to give their votes secretly. Whether this expectation be reasonable, is the question on which the decision of the dispute seems now to depend.

The first objection to this proposal is, that the Ballot would not produce secrecy. Even in those classes of men who are most accustomed to keep their own secret, the effect of the Ballot is very unequal and uncertain. The common case of clubs, in which a small minority is generally sufficient to exclude a candidate, may serve as an example. Where the club is numerous, the secret may be kept, as it is difficult to distinguish the few who reject: but in small clubs, where the dissentients may amount to a considerable proportion of the whole, they are almost always ascertained. The practice, it is true, is, in these cases, still useful; but it is only because it is agreed, by a sort of tacit convention, that an exclusion by Ballot is not a just cause of offence: it prevents quarrel, not disclosure. In the House of Commons, Mr. Bentham allows that the Ballot does not secure secrecy or independent choice. The example of the elections at the India House is very unfortunately selected; for every thing which a Ballot is supposed to prevent is to be found in these elections: — public and private canvass, — the influence of personal friendship, connexion, gratitude, expectation, — promises almost universally

made and observed, — votes generally if not always known, — as much regard, indeed, to public grounds of preference as in most other bodies, — but scarcely any exclusion of private motives, unless it be the apprehension of incurring resentment, which is naturally confined within narrow limits, by the independent condition of the greater part of the electors. In general, indeed, they refuse the secrecy which the legislature seems to tender to them. From kindness, from esteem, from other motives, they are desirous that their votes should be known to candidates whom they favour. And what is disclosed to friends is speedily discovered by opponents.

If the Ballot should be thought a less offensive mode of voting against an individual than the voice, this slight advantage is altogether confined to those classes of society who have leisure for such fantastic refinements. But are any such influences likely, or rather sure, to act on the two millions of voters who would be given to us by universal suffrage? Let us examine them closely. Will the country labourer ever avail himself of the proferred means of secrecy? To believe this, we must suppose that he performs the most important act of his life, — that which most flatters his pride, and gratifies his inclination, — without speaking of his intention before, or boasting of his vote when he has given it. His life has no secrets. The circle of his village is too small for concealment. His wife, his children, his fellow-labourers, the companions of his recreations, know all that he does, and almost all that he thinks. Can any one believe that he would pass the evening before, or the evening after the day of election, at his alehouse, wrapt up in the secrecy of a Venetian senator, and concealing a suffrage as he would do a murder? If his character disposed him to secrecy, would his situation allow it? His landlord, or his employer, or their agents, or the leaders of a party in the election, could never have any difficulty in discovering him. The simple acts of writing

his vote, of delivering it at the poll, or sending it if he could not attend, would betray his secret in spite of the most complicated Ballot ever contrived in Venice. In great towns, the very mention of secret suffrage is ridiculous. By what contrivance are public meetings of the two hundred and fifty thousand London electors to be prevented? There may be quiet and secrecy at the poll; but this does not in the least prevent publicity and tumult at other meetings occasioned by the election. A candidate will not forego the means of success which such meetings afford. The votes of those who attend them must be always known. If the Council of Ten were dispersed among a Westminster mob while candidates were speaking, they would catch its spirit, and betray their votes by huzzas or hisses. Candidates and their partisans, committees in parishes, agents in every street during an active canvass, would quickly learn the secret of almost any man in Westminster. The few who affected mystery would be detected by their neighbours. The evasive answer of the ablest of such dissemblers to his favoured friend or party, would be observably different, at least in tone and manner, from that which he gave to the enemy. The zeal, attachment, and enthusiasm, which must prevail in such elections, as long as they continue really popular, would probably bring all recurrence to means of secrecy into discredit, and very speedily into general disuse. Even the smaller tradesmen, to whom the Ballot might seem desirable, as a shield from the displeasure of their opulent customers, would betray the part they took in the election, by their ambition to be leaders in their parishes. The formality of the Ballot might remain: but the object of secrecy is incompatible with the nature of such elections.

The second objection is, that if secrecy of suffrage could be really adopted, it would, in practice, contract, instead of extending, the elective franchise, by abating, if not extinguishing, the strongest induce-

ments to its exercise. All wise laws contain in themselves effectual means for their own execution: but, where votes are secret, scarcely any motive for voting is left to the majority of electors. In a blind eagerness to free the franchise from influence, nearly all the common motives for its exercise are taken away. The common elector is neither to gain the favour of his superiors, nor the kindness of his fellows, nor the gratitude of the candidate for whom he votes: from all these, secrecy must exclude him. He is forbidden to strengthen his conviction, — to kindle his zeal, — to conquer his fears or selfishness, in numerous meetings of those with whom he agrees; for if he attends such meetings, he must publish his suffrage, and the Ballot, in his case, becomes altogether illusory. Every blameable motive of interest, — every pardonable inducement of personal partiality, is, indeed, taken away. But what is left in their place? Nothing but a mere sense of public duty, unaided by the popular discipline which gives fervour and vigour to public sentiments. A wise lawgiver does not trust to a general sense of duty in the most unimportant law. If such a principle could be trusted, laws would be unnecessary. Yet to this cold feeling, stripped of all its natural and most powerful aids, would the system of secret suffrage alone trust for its execution. At the poll it is said to be sufficient, because all temptations to do ill are supposed to be taken away: but the motives by which electors are induced to go to a poll, have been totally overlooked. The inferior classes, for whom this whole system is contrived, would, in its practice, be speedily disfranchised. They would soon relinquish a privilege when it was reduced to a troublesome duty. Their public principles are often generous; but they do not arise from secret meditation, and they do not flourish in solitude.

Lastly, if secret suffrage were to be permanently practised by all voters, it would deprive election of all its popular qualities, and of many of its beneficial

effects. The great object of popular elections is, to inspire and strengthen the love of liberty. On the strength of that sentiment freedom wholly depends, not only for its security against the power of time and of enemies, but for its efficiency and reality while it lasts. If we could suppose a people perfectly indifferent to political measures, and without any disposition to take a part in public affairs, the most perfect forms and institutions of liberty would be among them a dead letter. The most elaborate machinery would stand still for want of a moving power. In proportion as a people sinks more near to that slavish apathy, their constitution becomes so far vain, and their best laws impotent. Institutions are carried into effect by men, and men are moved to action by their feelings. A system of liberty can be executed only by men who love liberty. With the spirit of liberty, very unpromising forms grow into an excellent government; without it, the most specious cannot last, and are not worth preserving. The institutions of a free state are safest and most effective, when numerous bodies of men exercise their political rights with pleasure and pride,—consequently with zeal and boldness,—when these rights are endeared to them by tradition and by habit, as well as by conviction and feeling of their inestimable value,—and when the mode of exercising privileges is such as to excite the sympathy of all who view it, and to spread through the whole society a jealous love of popular right, and a proneness to repel with indignation every encroachment on it.

Popular elections contribute to these objects, partly by the character of the majority of the electors, and partly by the mode in which they give their suffrage. Assemblies of the people of great cities, are indeed very ill qualified to exercise authority; but without their occasional use, it can never be strongly curbed. Numbers are nowhere else to be collected. On numbers alone, much of their power depends. In nu-

merous meetings, every man catches animation from the feelings of his neighbour, and gathers courage from the strength of a multitude. Such assemblies, and they alone, with all their defects and errors, have the privilege of inspiring many human beings with a perfect, however transient, disinterestedness, and of rendering the most ordinary men capable of foregoing interest, and forgetting self, in the enthusiasm of zeal for a common cause. Their vices are a corrective of the deliberating selfishness of their superiors. Their bad, as well as good qualities, render them the portion of society the most susceptible of impressions, and the most accessible to public feelings. They are fitted to produce that democratic spirit which, tempered in its progress through the various classes of the community, becomes the vital principle of liberty. It is very true, that the occasional absurdity and violence of these meetings, often alienate men of timid virtue from the cause of liberty. It is enough for the present purpose, that in those long periods to which political reasonings must always be understood to apply, they contribute far more to excite and to second, than to offend or alarm, the enlightened friends of the rights of the people. But meetings for election are by far the safest and the most effective of all popular assemblies. They are brought together by the constitution; they have a legal character; they display the ensigns of public authority; they assemble men of all ranks and opinions; and, in them, the people publicly and conspicuously bestow some of the highest prizes pursued by a generous ambition. Hence they derive a consequence, and give a sense of self-importance, to their humblest members, which would be vainly sought for in spontaneous meetings. They lend a part of their own seriousness and dignity to other meetings occasioned by the election, and even to those which, at other times, are really, or even nominally, composed of electors.

In elections, political principles cease to be mere

abstractions. They are embodied in individuals; and the cold conviction of a truth, or the languid approbation of a measure, is animated by attachment for leaders, and hostility to adversaries. Every political passion is warmed in the contest. Even the outward circumstances of the scene strike the imagination, and affect the feelings. The recital of them daily spreads enthusiasm over a country. The various fortunes of the combat excite anxiety and agitation on all sides; and an opportunity is offered of discussing almost every political question, under circumstances in which the hearts of hearers and readers take part in the argument: till the issue of a controversy is regarded by the nation with some degree of the same solicitude as the event of a battle. In this manner is formed democratical ascendancy, which is most perfect when the greatest numbers of independent judgments influence the measures of government. Reading may, indeed, increase the number and intelligence of those whose sentiments compose public opinion; but numerous assemblies, and consequently popular elections, can alone generate the courage and zeal which form so large a portion of its power.

With these effects it is apparent that secret suffrage is absolutely incompatible: they cannot exist together. Assemblies to elect, or assemblies during elections, make all suffrages known. The publicity and boldness in which voters give their suffrage are of the very essence of popular elections, and greatly contribute to their animating effect. The advocates of the Ballot tell us, indeed, that it would destroy canvass and tumult. But after the destruction of the canvass, elections would no longer teach humility to the great, nor self-esteem to the humble. Were the causes of tumult destroyed, elections would no longer be nurseries of political zeal, and instruments for rousing national spirit. The friends of liberty ought rather to view the turbulence of the people with indulgence and pardon, as powerfully tending to exercise and in-

vigorate their public spirit. It is not to be extinguished, but to be rendered safe by countervailing institutions of an opposite tendency in other parts of the constitutional system.

The original fallacy, which is the source of all erroneous reasoning in favour of the Ballot, is the assumption that the value of popular elections chiefly depends on the exercise of a deliberate judgment by the electors. The whole anxiety of its advocates is to remove the causes which might disturb a considerate choice. In order to obtain such a choice, which is *not* the great purpose of popular elections, these speculators would deprive them of the power to excite and diffuse public spirit, — the great and inestimable service which a due proportion of such elections renders to a free state. In order to make the forms of democracy universal, their plan would universally extinguish its spirit. In a commonwealth where universal suffrage was already established, the Ballot might perhaps be admissible as an expedient for tempering such an extreme democracy. Even there, it might be objected to, as one of those remedies for licentiousness which are likely to endanger liberty by destroying all democratic spirit; — it would be one of those dexterous frauds by which the people are often weaned from the exertion of their privileges.

The system which we oppose is established in the United States of America; and it is said to be attended with no mischievous effects. To this we answer, that, in America, universal suffrage is not the rule, but the exception. In twelve out of the nineteen states* which compose that immense confederacy, the disgraceful institution of slavery deprives great multitudes not only of political franchises, but of the indefeasible rights of all mankind. The numbers of the representatives of the Slave-states in Congress is pro-

* This was written in 1819. In 1845 the proportion is thirteen Slave to fourteen Free States, exclusive of Texas. — Ed.

portioned to their population, whether slaves or freemen;—a provision arising, indeed, from the most abominable of all human institutions, but recognising the just principle, that property is one of the elements of every wise representation. In many states, the white complexion is a necessary qualification for suffrage, and the disfranchised are separated from the privileged order by a physical boundary, which no individual can ever pass. In countries of slavery, where to be free is to be noble, the universal distribution of privilege among the ruling caste, is a natural consequence of the aristocratical pride with which each man regards the dignity of the whole order, especially when they are all distinguished from their slaves by the same conspicuous and indelible marks. Yet, in Virginia, which has long been the ruling state of the confederacy, even the citizens of the governing class cannot vote without the possession of a freehold estate. A real or personal estate is required in New England,—the ancient seat of the character and spirit of America,—the parent of those seamen, who, with a courage and skill worthy of our common forefathers, have met the followers of Nelson in war,—the nursery of the intelligent and moral, as well as hardy and laborious race, who now annually colonise the vast regions of the West.

But were the fact otherwise, America contains few large, and no very great towns; the people are dispersed, and agricultural; and, perhaps, a majority of the inhabitants are either landowners, or have that immediate expectation of becoming proprietors, which produces nearly the same effect on character with the possession of property. Adventurers who, in other countries, disturb society, are there naturally attracted towards the frontier, where they pave the way for industry, and become the pioneers of civilisation. There is no part of their people in the situation where democracy is dangerous, or even usually powerful. The dispersion of the inhabitants, and their distance from

the scene of great affairs, are perhaps likely rather to make the spirit of liberty among them languid, than to rouse it to excess.

In what manner the present elective system of America may act, at the remote period when the progress of society shall have conducted that country to the involved ills and unequal fortunes of Europe, no man will pretend to foresee, except those whose presumptuous folly disables them from forming probable conjectures in such subjects. If from the unparalleled situation of America, the present usages should quietly prevail for a very long time, they may insensibly adapt themselves to the gradual changes in the national condition, and at length be found capable of subsisting in a state of things to which, if they had been suddenly introduced, they would have proved irreconcilably adverse. In the thinly peopled states of the West, universal suffrage itself may be so long exercised without the possibility of danger, as to create a national habit which may be strong enough to render its exercise safe in the midst of an indigent populace. In that long tranquillity it may languish into forms, and those forms may soon follow the spirit. For a period of far exceeding our foresight it cannot affect the constitutional further than the effect which may arise from very popular elections in a few of the larger Western towns. The order of the interior country wherever it is adopted, will be aided by the compression of its firmer and more compact confederates. It is even possible that the extremely popular system which prevails in some American elections, may, in future times, be found not more than sufficient to counterbalance the growing influence of wealth in the South, and the tendencies towards Toryism which are of late perceptible in New England.

The operation of different principles on elections, in various parts of the Continent, may even now be discerned. Some remarkable facts have already ap-

peared. In the state of Pennsylvania, we have * a practical proof that the Ballot is not attended with secrecy. We also know †, that committees composed of the leaders of the Federal and Democratic parties, instruct their partisans how they are to vote at every election; and that in this manner the leaders of the Democratic party who now predominate in their Caucus ‡ or committee at Washington, do in effect nominate to all the important offices in North America. Thus, we already see combinations formed, and interests arising, on which future the government of the confederacy may depend more than on the forms of election, or the letter of its present laws. Those who condemn the principle of party, may disapprove these associations as unconstitutional. To us who consider parties as inseparable from liberty, they seem remarkable as examples of those undesigned and unforeseen correctives of inconvenient laws which spring out of

* Fearon, Travels in North America, p. 138. How could this intelligent writer treat the absence of tumult, in such a city and country, as bearing any resemblance to the like circumstance in Europe?

† Ibid. p. 320.

‡ The following account of this strange term will show its probable origin, and the long-experienced efficacy of such an expedient for controlling the Ballot: — "About the year 1738, the father of Samuel Adams, and twenty others who lived in the north or shipping part of Boston, used to meet, to make a *Caucus*, and lay their plan for introducing certain persons into places of trust. Each distributed the ballots in his own circle, and they generally carried the election. In this manner Mr. S. Adams first became representative for Boston. *Caucusing* means electioneering." — (Gordon, History of the American Revolution, p. 216. note.) It is conjectured, that as this practice originated in the shipping part of Boston, "Caucus" was a corruption of Caulkers' Meeting. For this information we are indebted to Pickering's American Vocabulary (Boston, 1816); a modest and sensible book, of which the principal fault is, that the author ascribes too much importance to some English writers, who are not objects of much reverence to a near observer. Mr. Pickering's volume, however, deserves a place in English libraries.

the circumstances of society. The election of so great a magistrate as the President, by great numbers of electors, scattered over a vast continent, without the power of concert, or the means of personal knowledge, would naturally produce confusion, if it were not tempered by the confidence of the members of both parties in the judgment of their respective leaders. The permanence of these leaders, slowly raised by a sort of insensible election to the conduct of parties, tends to counteract the evil of that system of periodical removal, which is peculiarly inconvenient in its application to important executive offices. The internal discipline of parties may be found to be a principle of subordination of great value in republican institutions. Certain it is, that the affairs of the United States have hitherto been generally administered, in times of great difficulty and under a succession of Presidents, with a forbearance, circumspection, constancy, and vigour, not surpassed by those commonwealths who have been most justly renowned for the wisdom of their councils.

The only disgrace or danger which we perceive impending over America, arises from the execrable institution of slavery, — the unjust disfranchisement of free Blacks, — the trading in slaves carried on from state to state,—and the dissolute and violent character of those adventurers, whose impatience for guilty wealth spreads the horrors of slavery over the new acquisitions in the South. Let the lawgivers of that Imperial Republic deeply consider how powerfully these disgraceful circumstances tend to weaken the love of liberty, — the only bond which can hold together such vast territories, and therefore the only source and guard of the tranquillity and greatness of America.

A SPEECH

IN

DEFENCE OF JEAN PELTIER*,

ACCUSED OF A LIBEL ON THE FIRST CONSUL OF FRANCE.

DELIVERED IN THE COURT OF KING'S BENC
ON THE 21ST OF FEBRUARY, 1803.

GENTLEMEN OF THE JURY,

The time is now come for me to address you on behalf of the unfortunate Gentleman who is the defendant on this record.

I must begin with observing, that though I know myself too well to ascribe to any thing but to the kindness and good-nature of my learned friend the Attorney-General † the unmerited praises which he

* The First Consul had for some time previously shown considerable irritability under the fire of the English journalists, when the peace of Amiens, by permitting a *rapprochement* with the English Ministry, afforded an opening through which his paw could reach the source of annoyance. M. Jean Peltier, on whom it lighted, was an emigrant, who had been conducting for some years various periodical works in the Royalist interest. From one of these, — "L'Ambigu" — three articles, which are alluded to separately in the course of the speech, were selected by the law officers of the Crown for prosecution, as instigating the assassination of the First Consul. Nor, perhaps, could such a conclusion have been successfully struggled with by any advocate. The proceeding was one that was accompanied with much excitement in public opinion, as was evidenced by the concourse of persons surrounding the court on the day of trial. It was supposed by some that a verdict of acquittal would have had an unfavourable effect upon the already feverish state of the intercourse between the two Governments. In fact, though found "guilty," the Defendant escaped any sentence through the recurrence of hostilities. — ED.

† The Right Honourable Spencer Perceval. — ED.

has been pleased to bestow on me, yet I will venture to say, he has done me no more than justice in supposing that in this place, and on this occasion, where I exercise the functions of an inferior minister of justice,—an inferior minister indeed, but a minister of justice still,—I am incapable of lending myself to the passions of any client, and that I will not make the proceedings of this Court subservient to any political purpose. Whatever is respected by the laws and government of my country, shall, in this place, be respected by me. In considering matters that deeply interest the quiet, the safety, and the liberties of all mankind, it is impossible for me not to feel warmly and strongly; but I shall make an effort to control my feelings, however painful that effort may be, and where I cannot speak out but at the risk of offending either sincerity or prudence, I shall labour to contain myself and be silent.

I cannot but feel, Gentlemen, how much I stand in need of your favourable attention and indulgence. The charge which I have to defend is surrounded with the most invidious topics of discussion. But they are not of my seeking. The case, and the topics which are inseparable from it, are brought here by the prosecutor. Here I find them, and here it is my duty to deal with them, as the interests of Mr. Peltier seem to me to require. He, by his choice and confidence, has cast on me a very arduous duty, which I could not decline, and which I can still less betray. He has a right to expect from me a faithful, a zealous, and a fearless defence; and this his just expectation, according to the measure of my humble abilities, shall be fulfilled. I have said, a fearless defence:—perhaps that word was unnecessary in the place where I now stand. Intrepidity in the discharge of professional duty is so common a quality at the English Bar, that it has, thank God! long ceased to be a matter of boast or praise. If it had been otherwise, Gentlemen,—if the Bar could have been silenced or *overawed* by power, I may presume to say, that an

English jury would not this day have been met to administer justice. Perhaps I need scarce say that my defence shall be fearless, in a place where fear never entered any heart but that of a criminal. But you will pardon me for having said so much, when you consider who the real parties before you are.

Gentlemen, the real prosecutor is the master of the greatest empire the civilised world ever saw. The Defendant is a defenceless proscribed exile. He is a French Royalist, who fled from his country in the autumn of 1792, at the period of that memorable and awful emigration when all the proprietors and magistrates of the greatest civilised country of Europe were driven from their homes by the daggers of assassins; —when our shores were covered, as with the wreck of a great tempest, with old men, and women, and children, and ministers of religion, who fled from the ferocity of their countrymen as before an army of invading barbarians. The greater part of these unfortunate exiles,—of those I mean who have been spared by the sword, or who have survived the effect of pestilential climates or broken hearts,—have been since permitted to revisit their country. Though despoiled of their all, they have eagerly embraced even the sad privilege of being suffered to die in their native land. Even this miserable indulgence was to be purchased by compliances,—by declarations of allegiance to the new government,—which some of these suffering royalists deemed incompatible with their conscience, with their dearest attachments and their most sacred duties. Among these last is Mr. Peltier. I do not presume to blame those who submitted; and I trust you will not judge harshly of those who refused. You will not think unfavourably of a man who stands before you as the voluntary victim of his loyalty and honour. If a revolution (which God avert!) were to drive us into exile, and to cast us on a foreign shore, we should expect, at least, to be pardoned by generous men, for stubborn

loyalty, and unseasonable fidelity, to the laws and government of our fathers.

This unfortunate Gentleman had devoted a great part of his life to literature. It was the amusement and ornament of his better days: since his own ruin, and the desolation of his country, he has been compelled to employ it as a means of support. For the last ten years he has been engaged in a variety of publications of considerable importance: but, since the peace, he has desisted from serious political discussion, and confined himself to the obscure journal which is now before you,—the least calculated, surely, of any publication that ever issued from the press, to rouse the alarms of the most jealous government,—which will not be read in England, because it is not written in our language,—which cannot be read in France, because its entry into that country is prohibited by a power whose mandates are not very supinely enforced, nor often evaded with impunity,—which can have no other object than that of amusing the companions of the author's principles and misfortunes, by pleasantries and sarcasms on their victorious enemies. There is, indeed, Gentlemen, one remarkable circumstance in this unfortunate publication:—it is the only, or almost the only, journal, which still dares to espouse the cause of that royal and illustrious family, which but fourteen years ago was flattered by every press, and guarded by every tribunal, in Europe. Even the court in which we are met affords an example of the vicissitudes of their fortune. My learned Friend has reminded you, that the last prosecution tried in this place, at the instance of a French government, was for a libel on that magnanimous princess, who has since been butchered in sight of her palace.

I do not make these observations with any purpose of questioning the general principles which have been laid down by my Learned Friend. I must admit his right to bring before you those who libel any govern-

ment recognised by His Majesty, and at peace with the British empire. I admit that, whether such a government be of yesterday or a thousand years old,—whether it be a crude and bloody usurpation or the most ancient, just, and paternal authority upon earth,—we are here equally bound by His Majesty's recognition to protect it against libellous attacks. I admit that if, during our Usurpation, Lord Clarendon had published his History at Paris, or the Marquis of Montrose his verses on the murder of his sovereign, or Mr. Cowley his Discourse on Cromwell's Government, and if the English ambassador had complained, the President de Molé, or any other of the great magistrates who then adorned the Parliament of Paris, however reluctantly, painfully, and indignantly, might have been compelled to have condemned these illustrious men to the punishment of libellers. I say this only for the sake of bespeaking a favourable attention from your generosity and compassion to what will be feebly urged in behalf of my unfortunate Client, who has sacrificed his fortune, his hopes, his connexions, and his country, to his conscience,—who seems marked out for destruction in this his last asylum.

That he still enjoys the security of this asylum,—that he has not been sacrificed to the resentment of his powerful enemies, is, perhaps, owing to the firmness of the King's government. If that be the fact, Gentlemen,—if his Majesty's Ministers have resisted applications to expel this unfortunate Gentleman from England, I should publicly thank them for their firmness, if it were not unseemly and improper to suppose that they could have acted otherwise,—to thank an English Government for not violating the most sacred duties of hospitality,—for not bringing indelible disgrace on their country. But be that as it may, Gentlemen, he now comes before you perfectly satisfied that an English jury is the most refreshing prospect that the eye of accused innocence ever met in a human tribunal; and he feels with me the most fervent

gratitude to the Protector of empires, that, surrounded as we are with the ruins of principalities and powers, we still continue to meet together, after the manner of our fathers, to administer justice in this her ancient sanctuary.

There is another point of view, Gentlemen, in which this case seems to me to merit your most serious attention. I consider it as the first of a long series of conflicts between the greatest power in the world, and the only free press remaining in Europe. No man living is more thoroughly convinced than I am, that my Learned Friend will never degrade his excellent character,—that he will never disgrace his high magistracy by mean compliances,—by an immoderate and unconscientious exercise of power; yet I am convinced by circumstances which I shall now abstain from discussing, that *I am to consider this as the first of a long series of conflicts, between the greatest power in the world, and the only free press now remaining in Europe.* Gentlemen, this distinction of the English press is new: it is a proud and melancholy distinction. Before the great earthquake of the French Revolution had swallowed up all the asylums of free discussion on the Continent, we enjoyed that privilege, indeed, more fully than others, but we did not enjoy it exclusively. In great monarchies the press has always been considered as too formidable an engine to be entrusted to unlicensed individuals. But in other Continental countries, either by the laws of the state, or by long habits of liberality and toleration in magistrates, a liberty of discussion has been enjoyed, perhaps sufficient for the most useful purposes. It existed, in fact, where it was not protected by law: and the wise and generous connivance of governments was daily more and more secured by the growing civilisation of their subjects. In Holland, in Switzerland, and in the Imperial towns of Germany, the press was either legally or practically free. Holland and Switzerland are no more: and, since the commencement

of this prosecution, fifty Imperial towns have been erased from the list of independent states by one dash of the pen. Three or four still preserve a precarious and trembling existence. I will not say by what compliances they must purchase its continuance. I will not insult the feebleness of states whose unmerited fall I do most bitterly deplore.

These governments were in many respects one of the most interesting parts of the ancient system of Europe. Unfortunately for the repose of mankind, great states are compelled, by regard to their own safety, to consider the military spirit and martial habits of their people as one of the main objects of their policy. Frequent hostilities seem almost the necessary condition of their greatness: and, without being great, they cannot long remain safe. Smaller states, exempted from this cruel necessity,—a hard condition of greatness, a bitter satire on human nature,—devoted themselves to the arts of peace, to the cultivation of literature, and the improvement of reason. They became places of refuge for free and fearless discussion: they were the impartial spectators and judges of the various contests of ambition, which, from time to time, disturbed the quiet of the world. They thus became peculiarly qualified to be the organs of that public opinion which converted Europe into a great republic, with laws which mitigated, though they could not extinguish, ambition, and with moral tribunals, to which even the most despotic sovereigns were amenable. If wars of aggrandisement were undertaken, their authors were arraigned in the face of Europe. If acts of internal tyranny were perpetrated, they resounded from a thousand presses throughout all civilised countries. Princes on whose will there were no legal checks, thus found a moral restraint which the most powerful of them could not brave with absolute impunity. They acted before a vast audience, to whose applause or condemnation they could not be utterly indifferent. The very con-

stitution of human nature,—the unalterable laws of the mind of man, against which all rebellion is fruitless, subjected the proudest tyrants to this control. No elevation of power,—no depravity, however consummate,—no innocence, however spotless, can render man wholly independent of the praise or blame of his fellow-men.

These governments were in other respects one of the most beautiful and interesting parts of our ancient system. The perfect security of such inconsiderable and feeble states,—their undisturbed tranquillity amidst the wars and conquests that surrounded them, attested, beyond any other part of the European system, the moderation, the justice, the civilisation to which Christian Europe had reached in modern times. Their weakness was protected only by the habitual reverence for justice, which, during a long series of ages, had grown up in Christendom. This was the only fortification which defended them against those mighty monarchs to whom they offered themselves so easy a prey. And, till the French Revolution, this was sufficient. Consider, for instance, the situation of the republic of Geneva: think of her defenceless position in the very jaws of France; but think also of her undisturbed security,—of her profound quiet,—of the brilliant success with which she applied to industry and literature, while Louis XIV. was pouring his myriads into Italy before her gates. Call to mind, if ages crowded into years have not effaced them from your memory, that happy period when we scarcely dreamt more of the subjugation of the feeblest republic of Europe, than of the conquest of her mightiest empire, and tell me if you can imagine a spectacle more beautiful to the moral eye, or a more striking proof of progress in the noblest principles of true civilisation.

These feeble states—these monuments of the justice of Europe,—the asylum of peace, of industry, and of literature,—the organs of public reason,—the refuge of op-

pressed innocence and persecuted truth,—have perished with those ancient principles which were their sole guardians and protectors. They have been swallowed up by that fearful convulsion, which has shaken the uttermost corners of the earth. They are destroyed and gone for ever. One asylum of free discussion is still inviolate. There is still one spot in Europe where man can freely exercise his reason on the most important concerns of society,—where he can boldly publish his judgment on the acts of the proudest and most powerful tyrants. The press of England is still free. It is guarded by the free constitution of our forefathers;—it is guarded by the hearts and arms of Englishmen; and I trust I may venture to say, that if it be to fall, it will fall only under the ruins of the British empire. It is an awful consideration, Gentlemen:—every other monument of European liberty has perished: that ancient fabric which has been gradually reared by the wisdom and virtue of our fathers still stands. It stands (thanks be to God!) solid and entire; but it stands alone, and it stands amidst ruins.

In these extraordinary circumstances, I repeat that I must consider this as the first of a long series of conflicts between the greatest power in the world and the only free press remaining in Europe; and I trust that you will consider yourselves as the advanced guard of liberty, as having this day to fight the first battle of free discussion against the most formidable enemy that it ever encountered. You will therefore excuse me, if on so important an occasion I remind you, at more length than is usual, of those general principles of law and policy on this subject, which have been handed down to us by our ancestors.

Those who slowly built up the fabric of our laws never attempted any thing so absurd as to define by any precise rule the obscure and shifting boundaries which divide libel from history or discussion. It is a subject which, from its nature, admits neither rules nor definitions. The same words may be perfectly

innocent in one case, and most mischievous and libellous in another. A change of circumstances, often apparently slight, is sufficient to make the whole difference. These changes, which may be as numerous as the variety of human intentions and conditions, can never be foreseen or comprehended under any legal definitions; and the framers of our law have never attempted to subject them to such definitions. They left such ridiculous attempts to those who call themselves philosophers, but who have in fact proved themselves most grossly and stupidly ignorant of that philosophy which is conversant with human affairs.

The principles of the law of England on the subject of political libel are few and simple; and they are necessarily so broad, that, without an habitually mild administration of justice, they might encroach materially on the liberty of political discussion. Every publication which is intended to vilify either our own government, or the government of any foreign state in amity with this kingdom, is, by the law of England, a libel. To protect political discussion from the danger to which it would be exposed by these wide principles, if they were severely and literally enforced, our ancestors trusted to various securities; some growing out of the law and constitution, and others arising from the character of those public officers whom the constitution had formed, and to whom its administration is committed. They trusted, in the first place, to the moderation of the legal officers of the Crown, educated in the maxims and imbued with the spirit of a free government, controlled by the superintending power of Parliament, and peculiarly watched in all political prosecutions by the reasonable and wholesome jealousy of their fellow-subjects. And I am bound to admit, that since the glorious era of the Revolution,—making due allowance for the frailties, the faults, and the occasional vices of men,—they have upon the whole not been disappointed. I know that, in the hands of my Learned Friend, that trust

will never be abused. But, above all, they confided in the moderation and good sense of juries,—popular in their origin,—popular in their feelings,—popular in their very prejudices,—taken from the mass of the people, and immediately returning to that mass again. By these checks and temperaments they hoped that they should sufficiently repress malignant libels, without endangering that freedom of inquiry which is the first security of a free state. They knew that the offence of a political libel is of a very peculiar nature, and differing in the most important particulars from all other crimes. In all other cases the most severe execution of law can only spread terror among the guilty; but, in political libels, it inspires even the innocent with fear. This striking peculiarity arises from the same circumstances which make it impossible to define the limits of libel and innocent discussion,—which make it impossible for a man of the purest and most honourable mind to be always perfectly certain, whether he be within the territory of fair argument and honest narrative, or whether he may not have unwittingly overstepped the faint and varying line which bounds them. But, Gentlemen, I will go farther:—this is the only offence where severe and frequent punishments not only intimidate the innocent, but deter men from the most meritorious acts, and from rendering the most important services to their country,—indispose and disqualify men for the discharge of the most sacred duties which they owe to mankind. To inform the public on the conduct of those who administer public affairs requires courage and conscious security. It is always an invidious and obnoxious office; but it is often the most necessary of all public duties. If it is not done boldly, it cannot be done effectually: and it is not from writers trembling under the uplifted scourge that we are to hope for it.

There are other matters, Gentlemen, to which I am desirous of particularly calling your attention. These

are, the circumstances in the condition of this country, which have induced our ancestors, at all times, to handle with more than ordinary tenderness that branch of the liberty of discussion which is applied to the conduct of foreign states. The relation of this kingdom to the commonwealth of Europe is so peculiar, that no history, I think, furnishes a parallel to it. From the moment in which we abandoned all projects of Continental aggrandisement, we could have no interest respecting the state of the Continent, but the interests of national safety, and of commercial prosperity. The paramount interest of every state, —that which comprehends every other, is security: and the security of Great Britain requires nothing on the Continent but the uniform observance of justice. It requires nothing but the inviolability of ancient boundaries, and the sacredness of ancient possessions, which, on these subjects, is but another form of words for justice.

As to commercial prosperity, it is, indeed, a secondary, but still a very important branch of our national interest; and it requires nothing on the Continent of Europe but the maintenance of peace, as far as the paramount interest of security will allow. Whatever ignorant or prejudiced men may affirm, no war was ever gainful to a commercial nation. Losses may be less in some, and incidental profits may arise in others. But no such profits ever formed an adequate compensation for the waste of capital and industry which all wars must produce. Next to peace, our commercial greatness depends chiefly on the affluence and prosperity of our neighbours. A commercial nation has, indeed, the same interest in the wealth of her neighbours, that a tradesman has in the wealth of his customers. The prosperity of England has been chiefly owing to the general progress of civilised nations in the arts and improvements of social life. Not an acre of land has been brought into cultivation in the wilds of Siberia, or on the

shores of the Mississippi, which has not widened the market for English industry. It is nourished by the progressive prosperity of the world; and it amply repays all that it has received. It can only be employed in spreading civilisation and enjoyment over the earth; and by the unchangeable laws of nature, in spite of the impotent tricks of governments, it is now partly applied to revive the industry of those very nations who are the loudest in their senseless clamours against its pretended mischiefs. If the blind and barbarous project of destroying English prosperity could be accomplished, it could have no other effect than that of completely beggaring the very countries, which now stupidly ascribe their own poverty to our wealth.

Under these circumstances, Gentlemen, it became the obvious policy of this kingdom, — a policy in unison with the maxims of a free government, — to consider with great indulgence even the boldest animadversions of our political writers on the ambitious projects of foreign states. Bold, and sometimes indiscreet, as these animadversions might be, they had at least the effect of warning the people of their danger, and of rousing the national indignation against those encroachments which England has almost always been compelled in the end to resist by arms. Seldom, indeed, has she been allowed to wait, till a provident regard to her own safety should compel her to take up arms in defence of others. For, as it was said by a great orator of antiquity, "that no man ever was the enemy of the republic who had not first declared war against him *," so I may say, with truth, that no man ever meditated the subjugation of Europe, who did not consider the destruction, or the corruption, of England as the first condition of his success. If you examine history you will find, that

* The reference is probably to Cicero. Orat. in Catilinam, iv. cap. 10. — Ed.

no such project was ever formed in which it was not deemed a necessary preliminary, either to detach England from the common cause, or to destroy her. It seems as if all the conspirators against the independence of nations might have sufficiently taught other states that England is their natural guardian and protector, — that she alone has no interest but their preservation, — that her safety is interwoven with their own. When vast projects of aggrandisement are manifested, — when schemes of criminal ambition are carried into effect, the day of battle is fast approaching for England. Her free government cannot engage in dangerous wars, without the hearty and affectionate support of her people. A state thus situated cannot without the utmost peril silence those public discussions, which are to point the popular indignation against those who must soon be enemies. In domestic dissensions, it may sometimes be the supposed interest of government to overawe the press: but it never can be even their apparent interest when the danger is purely foreign. A King of England who, in such circumstances, should conspire against the free press of this country, would undermine the foundations of his own throne; — he would silence the trumpet which is to call his people round his standard.

Gentlemen, the public spirit of a people (by which I mean the whole body of those affections which unites men's hearts to the commonwealth) is in various countries composed of various elements, and depends on a great variety of causes. In this country, I may venture to say, that it mainly depends on the vigour of the popular parts and principles of our government; and that the spirit of liberty is one of its most important elements. Perhaps it may depend less on those advantages of a free government, which are most highly estimated by calm reason, than upon those parts of it which delight the imagination, and flatter the just and natural pride of mankind. Among

these we are certainly not to forget the political rights which are not uniformly withheld from the lowest classes, and the continual appeal made to them, in public discussion, upon the greatest interest of the state. These are undoubtedly among the circumstances which endear to Englishmen their government and their country, and animate their zeal for that glorious institution which confers on the meanest of them a sort of distinction and nobility unknown to the most illustrious slaves, who tremble at the frown of a tyrant. Whoever was unwarily and rashly to abolish or narrow these privileges (which it must be owned are liable to great abuse, and to very specious objections), might perhaps discover, too late, that he had been dismantling the fortifications of his country. Of whatever elements public spirit is composed, it is always and every where the chief defensive principle of a state (it is perfectly distinct from courage: — perhaps no nation — certainly no European nation ever perished from an inferiority of courage); and undoubtedly no considerable nation was ever subdued, in which the public affections were sound and vigorous. It is public spirit which binds together the dispersed courage of individuals, and fastens it to the commonwealth: — it is therefore, as I have said, the chief defensive principle of every country. Of all the stimulants which rouse it into action, the most powerful among us is certainly the press: and the press cannot be restrained or weakened without imminent danger that the national spirit may languish, and that the people may act with less zeal and affection for their country in the hour of its danger.

These principles, Gentlemen, are not new: they are genuine old English principles. And though in our days they have been disgraced and abused by ruffians and fanatics, they are in themselves as just and sound as they are liberal; and they are the only principles on which a free state can be safely governed. These principles I have adopted since I first learnt the use

of reason; and I think I shall abandon them only with life.

On these principles I am now to call your attention to the libel with which this unfortunate Gentleman is charged. I heartily rejoice that I concur with the greatest part of what has been said by my Learned Friend, who has done honour even to *his* character by the generous and liberal principles which he has laid down. He has told you that he does not mean to attack historical narrative; — he has told you that he does not mean to attack political discussion; — he has told you also that he does not consider every intemperate word into which a writer, fairly engaged in narration or reasoning, might be betrayed, as a fit subject for prosecution. The essence of the crime of libel consists in the malignant mind which the publication proves, and from which it flows. A jury must be convinced, before they find a man guilty of libel, that his intention was to libel, — not to state facts which he believed to be true, or reasonings which he thought just. My Learned Friend has told you that the liberty of history includes the right of publishing those observations which occur to intelligent men when they consider the affairs of the world; and I think he will not deny that it includes also the right of expressing those sentiments which all good men feel on the contemplation of extraordinary examples of depravity or excellence.

One more privilege of the historian, which the Attorney-General has not named, but to which his principles extend, it is now my duty to claim on behalf of my client: — I mean the right of republishing, historically, those documents (whatever their original malignity may be) which display the character and unfold the intentions of governments, or factions, or individuals. I think my Learned Friend will not deny, that an historical compiler may innocently republish in England the most insolent and outrageous declaration of war ever published against His Majesty

by a foreign government. The intention of the original author was to vilify and degrade his Majesty's government: but the intention of the compiler is only to gratify curiosity, or perhaps to rouse just indignation against the calumniator whose production he republishes; his intention is not libellous, — his republication is therefore not a libel. Suppose this to be the case with Mr. Peltier; — suppose him to have republished libels with a merely historical intention. In that case it cannot be pretended that he is more a libeller than my learned friend Mr. Abbott *, who read these supposed libels to you when he opened the pleadings. Mr. Abbott republished them to you, that you might know and judge of them: Mr. Peltier, on the supposition I have made, also republished them that the public might know and judge of them.

You already know that the general plan of Mr. Peltier's publication was to give a picture of the cabals and intrigues, — of the hopes and projects, of French factions. It is undoubtedly a natural and necessary part of this plan to republish all the serious and ludicrous pieces which these factions circulate against each other. The Ode ascribed to Chenier or Ginguené I do really believe to have been written at Paris, — to have been circulated there, — to have been there attributed to one of these writers, — to have been sent to England as their work, — and as such, to have been republished by Mr. Peltier. But I am not sure that I have evidence to convince you of the truth of this. Suppose that I have not: will my Learned Friend say that my client must necessarily be convicted? I, on the contrary, contend, that it is for my Learned Friend to show that it is not an historical republication: — such it professes to be, and that profession it is for him to disprove. The profession may indeed be a "mask:" but it is for my Friend to pluck

* The junior counsel for the prosecution, afterwards Lord Tenterden. — Ed.

off the mask, and expose the libeller, before he calls upon you for a verdict of "guilty."

If the general lawfulness of such republications be denied, then I must ask Mr. Attorney-General to account for the long impunity which English newspapers have enjoyed. I must request him to tell you why they have been suffered to republish all the atrocious, official and unofficial, libels which have been published against His Majesty for the last ten years, by the Brissots, the Marats, the Dantons, the Robespierres, the Barrères, the Talliens, the Reubells, the Merlins, the Barras', and all that long line of bloody tyrants who oppressed their own country, and insulted every other which they had not the power to rob. What must be the answer? That the English publishers were either innocent if their motive was to gratify curiosity, or praiseworthy if their intention was to rouse indignation against the calumniators of their country. If any other answer be made, I must remind my Friend of a most sacred part of his duty, —the duty of protecting the honest fame of those who are absent in the service of their country. Within these few days, we have seen in every newspaper in England, a publication, called the Report of Col. Sebastiani, in which a gallant British officer (General Stuart) is charged with writing letters to procure assassination. The publishers of that infamous Report are not and will not be prosecuted, because their intention is not to libel General Stuart. On any other principle, why have all our newspapers been suffered to circulate that most atrocious of all libels against the King and people of England, which purports to be translated from the Moniteur of the 9th of August, 1802; a libel against a Prince, who has passed through a factious and stormy reign of forty-three years without a single imputation on his personal character,—against a people who have passed through the severest trials of national virtue with unimpaired glory, who alone in the world can boast of mutinies without

murder, of triumphant mobs without massacre, of bloodless revolutions and of civil wars unstained by a single assassination;—that most impudent and malignant libel, which charges such a King of such a people not only with having hired assassins, but with being so shameless,—so lost to all sense of character, as to have bestowed on these assassins, if their murderous projects had succeeded, the highest badges of public honour,—the rewards reserved for statesmen and heroes,—the Order of the Garter;—the Order which was founded by the heroes of Creçy and Poitiers,—the Garter which was worn by Henry the Great and by Gustavus Adolphus,—which might now be worn by the Hero* who, on the shores of Syria, the ancient theatre of English chivalry, has revived the renown of English valour and of English humanity,—that unsullied Garter, which a detestable libeller dares to say is to be paid as the price of murder.

If I had now to defend an English publisher for the republication of that abominable libel, what must I have said on his defence? I must have told you that it was originally published by the French Government in their official gazette,—that it was republished by the English editor to gratify the natural curiosity, perhaps to rouse the just resentment, of his English readers. I should have contended, and, I trust, with success, that his republication of a libel was not libellous,—that it was lawful,—that it was laudable. All that would be important, at least all that would be essential in such a defence I now state to you on behalf of Mr. Peltier; and if an English newspaper may safely republish the libels of the French Government against His Majesty, I shall leave you to judge whether Mr. Peltier, in similar circumstances, may not, with equal safety, republish the libels of Chenier against the First Consul. On the

* Sir Sydney Smith.—Ed.

one hand you have the assurances of Mr. Peltier in the context that this Ode is merely a republication;—you have also the general plan of his work, with which such a republication is perfectly consistent. On the other hand, you have only the suspicions of Mr. Attorney-General that this Ode is an original production of the Defendant.

But supposing that you should think it his production, and that you should also think it a libel,—even in that event, which I cannot anticipate, I am not left without a defence. The question will still be open:—is it a libel on Buonaparte, or is it a libel on Chenier or Ginguené? This is not an information for a libel on Chenier; and if you should think that this Ode was produced by Mr. Peltier, and ascribed by him to Chenier for the sake of covering that writer with the odium of Jacobinism, the Defendant is entitled to your verdict of 'not guilty.' Or if you should believe that it is ascribed to Jacobinical writers for the sake of satirising a French Jacobinical faction, you must also in that case acquit him. Butler puts seditious and immoral language into the mouths of rebels and fanatics; but Hudibras is not for that reason a libel on morality or government. Swift, in the most exquisite piece of irony in the world (his Argument against the Abolition of Christianity), uses the language of those shallow, atheistical coxcombs whom his satire was intended to scourge. The scheme of his irony required some levity, and even some profaneness of language; but nobody was ever so dull as to doubt whether Swift meant to satirise atheism or religion. In the same manner Mr. Peltier, when he wrote a satire on French Jacobinism, was compelled to ascribe to Jacobins a Jacobinical hatred of government. He was obliged, by dramatic propriety, to put into their mouths those anarchical maxims which are complained of in this Ode. But it will be said, these incitements to insurrection are here directed against the authority of Buonaparte.

This proves nothing, because they must have been so directed, if the Ode was a satire on Jacobinism. French Jacobins must inveigh against Buonaparte, because he exercises the powers of government: the satirist who attacks them must transcribe their sentiments, and adopt their language.

I do not mean to say, Gentlemen, that Mr. Peltier feels any affection, or professes any allegiance to Buonaparte. If I were to say so, he would disown me. He would disdain to purchase an acquittal by the profession of sentiments which he disclaims and abhors. Not to love Buonaparte is no crime. The question is not whether Mr. Peltier loves or hates the First Consul, but whether he has put revolutionary language into the mouth of Jacobins, with a view to paint their incorrigible turbulence, and to exhibit the fruits of Jacobinical revolutions to the detestation of mankind.

Now, Gentlemen, we cannot give a probable answer to this question without previously examining two or three questions on which the answer to the first must very much depend. Is there a faction in France which breathes the spirit, and is likely to employ the language of this Ode? Does it perfectly accord with their character and views? Is it utterly irreconcilable with the feelings, opinions, and wishes of Mr. Peltier? If these questions can be answered in the affirmative, then I think you must agree with me, that Mr. Peltier does not in this Ode speak his own sentiments, — that he does not here vent his own resentment against Buonaparte, but that he personates a Jacobin, and adopts his language for the sake of satirising his principles.

These questions, Gentlemen, lead me to those political discussions, which, generally speaking, are in a court of justice odious and disgusting. Here, however, they are necessary, and I shall consider them only as far as the necessities of this cause require.

Gentlemen, the French Revolution — I must pause,

after I have uttered words which present such an overwhelming idea. But I have not now to engage in an enterprise so far beyond my force as that of examining and judging that tremendous revolution. I have only to consider the character of the factions which it must have left behind it. The French Revolution began with great and fatal errors. These errors produced atrocious crimes. A mild and feeble monarchy was succeeded by bloody anarchy, which very shortly gave birth to military despotism. France, in a few years, described the whole circle of human society. All this was in the order of nature. When every principle of authority and civil discipline, — when every principle which enables some men to command, and disposes others to obey, was extirpated from the mind by atrocious theories, and still more atrocious examples, — when every old institution was trampled down with contumely, and every new institution covered in its cradle with blood, — when the principle of property itself, the sheet-anchor of society, was annihilated, — when in the persons of the new possessors, whom the poverty of language obliges us to call proprietors, it was contaminated in its source by robbery and murder, and became separated from the education and the manners, from the general presumption of superior knowledge and more scrupulous probity which form its only liberal titles to respect, — when the people were taught to despise every thing old, and compelled to detest every thing new, there remained only one principle strong enough to hold society together, — a principle utterly incompatible, indeed, with liberty, and unfriendly to civilisation itself, — a tyrannical and barbarous principle, but, in that miserable condition of human affairs, a refuge from still more intolerable evils: — I mean the principle of military power, which gains strength from that confusion and bloodshed in which all the other elements of society are dissolved, and which, in these terrible extremities, is the cement that preserves it

from total destruction. Under such circumstances, Buonaparte usurped the supreme power in France; — I say *usurped*, because an illegal assumption of power is an usurpation. But usurpation, in its strongest moral sense, is scarcely applicable to a period of lawless and savage anarchy. The guilt of military usurpation, in truth, belongs to the authors of those confusions which sooner or later give birth to such an usurpation. Thus, to use the words of the historian, "by recent, as well as all ancient example, it became evident, that illegal violence, with whatever pretences it may be covered, and whatever object it may pursue, must inevitably end at last in the arbitrary and despotic government of a single person." * But though the government of Buonaparte has silenced the Revolutionary factions, it has not and it cannot have extinguished them. No human power could reimpress upon the minds of men all those sentiments and opinions which the sophistry and anarchy of fourteen years had obliterated. A faction must exist, which breathes the spirit of the Ode now before you.

It is, I know, not the spirit of the quiet and submissive majority of the French people. They have always rather suffered, than acted in, the Revolution. Completely exhausted by the calamities through which they have passed, they yield to any power which gives them repose. There is, indeed, a degree of oppression which rouses men to resistance; but there is another and a greater which wholly subdues and unmans them. It is remarkable that Robespierre himself was safe, till he attacked his own accomplices. The spirit of men of virtue was broken, and there was no vigour of character left to destroy him, but in those daring ruffians who were the sharers of his tyranny.

As for the wretched populace who were made the blind and senseless instrument of so many crimes, —

* Hume, History of England, vol. vii. p. 220.

whose frenzy can now be reviewed by a good mind with scarce any moral sentiment but that of compassion, — that miserable multitude of beings, scarcely human, have already fallen into a brutish forgetfulness of the very atrocities which they themselves perpetrated: they have already forgotten all the acts of their drunken fury. If you ask one of them, who destroyed that magnificent monument of religion and art? or who perpetrated that massacre? they stupidly answer, "The Jacobins!" — though he who gives the answer was probably one of these Jacobins himself: so that a traveller, ignorant of French history, might suppose the Jacobins to be the name of some Tartar horde, who, after laying waste France for ten years, were at last expelled by the native inhabitants. They have passed from senseless rage to stupid quiet: their delirium is followed by lethargy.

In a word, Gentlemen, the great body of the people of France have been severely trained in those convulsions and proscriptions which are the school of slavery. They are capable of no mutinous, and even of no bold and manly political sentiments: and if this Ode professed to paint their opinions, it would be a most unfaithful picture. But it is otherwise with those who have been the actors and leaders in the scene of blood: it is otherwise with the numerous agents of the most indefatigable, searching, multiform, and omnipresent tyranny that ever existed, which pervaded every class of society, — which had ministers and victims in every village in France.

Some of them, indeed, — the basest of the race, — the Sophists, the Rhetors, the Poet-laureates of murder, — who were cruel only from cowardice, and calculating selfishness, are perfectly willing to transfer their venal pens to any government that does not disdain their infamous support. These men, republicans from servility, who published rhetorical panegyrics on massacre, and who reduced plunder to a system of ethics, are as ready to preach slavery as

anarchy. But the more daring—I had almost said the more respectable—ruffians cannot so easily bend their heads under the yoke. These fierce spirits have not lost

"The unconquerable will, the study of revenge, immortal hate."*

They leave the luxuries of servitude to the mean and dastardly hypocrites,—to the Belials and Mammons of the infernal faction. They pursue their old end of tyranny under their old pretext of liberty. The recollection of their unbounded power renders every inferior condition irksome and vapid: and their former atrocities form, if I may so speak, a sort of moral destiny which irresistibly impels them to the perpetration of new crimes. They have no place left for penitence on earth: they labour under the most awful proscription of opinion that ever was pronounced against human beings: they have cut down every bridge by which they could retreat into the society of men. Awakened from their dreams of democracy,—the noise subsided that deafened their ears to the voice of humanity,—the film fallen from their eyes which hid from them the blackness of their own deeds,—haunted by the memory of their inexpiable guilt,—condemned daily to look on the faces of those whom their hand has made widows and orphans, they are goaded and scourged by these real furies, and hurried into the tumult of new crimes, to drown the cries of remorse, or, if they be too depraved for remorse, to silence the curses of mankind. Tyrannical power is their only refuge from the just vengeance of their fellow creatures: murder is their only means of usurping power. They have no taste, no occupation, no pursuit, but power and blood. If their hands are tied, they must at least have the luxury of murderous projects. They have drunk too deeply of human blood ever to relinquish their cannibal appetite.

* Paradise Lost, book ii.—Ed.

Such a faction exists in France: it is numerous; it is powerful; and it has a principle of fidelity stronger than any that ever held together a society. They are banded together by despair of forgiveness,—by the unanimous detestation of mankind. They are now contained by a severe and stern government: but they still meditate the renewal of insurrection and massacre; and they are prepared to renew the worst and most atrocious of their crimes,—that crime against posterity and against human nature itself,—that crime of which the latest generations of mankind may feel the fatal consequences,—the crime of degrading and prostituting the sacred name of liberty. I must own that, however paradoxical it may appear, I should almost think not worse, but more meanly of them if it were otherwise. I must then think them destitute of that—I will not call it courage, because that is the name of a virtue—but of that ferocious energy which alone rescues ruffians from contempt. If they were destitute of that which is the heroism of murderers, they would be the lowest as well as the most abominable of beings. It is impossible to conceive any thing more despicable than wretches who, after hectoring and bullying over their meek and blameless sovereign, and his defenceless family,—whom they kept so long in a dungeon trembling for their existence,—whom they put to death by a slow torture of three years,—after playing the republicans and the tyrannicides to women and children,—become the supple and fawning slaves of the first government that knows how to wield the scourge with a firm hand.

I have used the word "Republican," because it is the name by which this atrocious faction describes itself. The assumption of that name is one of their crimes. They are no more "Republicans" than "Royalists:" they are the common enemies of all human society. God forbid, that by the use of that word, I should be supposed to reflect on the members of those respect-

able republican communities which did exist in Europe before the French Revolution. That Revolution has spared many monarchies, but it has spared no republic within the sphere of its destructive energy. One republic only now exists in the world — a republic of English blood, which was originally composed of republican societies, under the protection of a monarchy, which had therefore no great and perilous change in their internal constitution to effect, and of which (I speak it with pleasure and pride), the inhabitants, even in the convulsions of a most deplorable separation, displayed the humanity as well as valour, which, I trust, I may say they inherited from their forefathers. Nor do I mean, by the use of the word "Republican," to confound this execrable faction with all those who, in the liberty of private speculation, may prefer a republican form of government. I own, that after much reflection, I am not able to conceive an error more gross than that of those who believe in the possibility of erecting a republic in any of the old monarchical countries of Europe, — who believe that in such countries an elective supreme magistracy can produce any thing but a succession of stern tyrannies and bloody civil wars. It is a supposition which is belied by all experience, and which betrays the greatest ignorance of the first principles of the constitution of society. It is an error which has a false appearance of superiority over vulgar prejudice; it is, therefore, too apt to be attended with the most criminal rashness and presumption, and too easy to be inflamed into the most immoral and anti-social fanaticism. But as long as it remains a mere quiescent error, it is not the proper subject of moral disapprobation.

If then, Gentlemen, such a faction, falsely calling itself "Republican," exists in France, let us consider whether this Ode speaks their sentiments, — describes their character, — agrees with their views. Trying it by the principle I have stated, I think you will have

no difficulty in concluding, that it is agreeable to the general plan of this publication to give an historical and satirical view of the Brutus's and brutes of the Republic,—of those who assumed and disgraced the name of Brutus*, and who, under that name, sat as judges in their mock tribunals with pistols in their girdles, to anticipate the office of the executioner on those unfortunate men whom they treated as rebels, for resistance to Robespierre and Couthon.

I now come to show you, that this Ode cannot represent the opinions of Mr. Peltier He is a French Royalist; he has devoted his talents to the cause of his King; for that cause he has sacrificed his fortune and hazarded his life;—for that cause he is proscribed and exiled from his country. I could easily conceive powerful topics of Royalist invective against Buonaparte: and if Mr. Peltier had called upon Frenchmen by the memory of St. Louis and Henry the Great,—by the memory of that illustrious family which reigned over them for seven centuries, and with whom all their martial renown and literary glory are so closely connected,—if he had abjured them by the spotless name of that Louis XVI. the martyr of his love for his people, which scarce a man in France can now pronounce but in the tone of pity and veneration,—if he had *thus* called upon them to change their useless regret and their barren pity into generous and active indignation,—if he had reproached the conquerors of Europe with the disgrace of being the slaves of an upstart stranger,—if he had brought before their minds the contrast between their country under her ancient monarchs, the source and model of refinement in manners and taste, and since their expulsion the scourge and opprobrium of humanity,—if he had exhorted them to drive out their ignoble tyrants, and to restore their native sovereign, I should

* A Citizen *Brutus* was President of the Military Commission at Marseilles, in January, 1794.

then have recognised the voice of a Royalist, — I should have recognised language that must have flowed from the heart of Mr. Peltier, and I should have been compelled to acknowledge that it was pointed against Buonaparte.

But instead of these, or similar topics, what have we in this Ode? On the supposition that it is the invective of a Royalist, how is it to be reconciled to common sense? What purpose is it to serve? To whom is it addressed? To what interests does it appeal? What passions is it to rouse? If it be addressed to Royalists, then I request, Gentlemen, that you will carefully read it, and tell me whether, on that supposition, it can be any thing but the ravings of insanity, and whether a commission of lunacy be not a proceeding more fitted to the author's case, than a conviction for a libel. On that supposition, I ask you whether it does not amount, in substance, to such an address as the following: — "Frenchmen! Royalists! I do not call upon you to avenge the murder of your innocent sovereign, the butchery of your relations and friends, or the disgrace and oppression of your country. I call upon you by the hereditary right of Barras, transmitted through a long series of ages, — by the beneficent government of Merlin and Reubell, those worthy successors of Charlemagne, whose authority was as mild as it was lawful, — I call upon you to revenge on Buonaparte the deposition of that Directory who condemned the far greater part of yourselves to beggary and exile, — who covered France with Bastiles and scaffolds, — who doomed the most respectable remaining members of their community, the Pichegrus, the Barbé-Marbois', the Barthelemis, to a lingering death in the pestilential wilds of Guiana. I call upon you to avenge on Buonaparte the cause of those Councils of Five Hundred, or of Two Hundred, of Elders or of Youngers, — those disgusting and nauseous mockeries of representative assemblies, — those miserable councils which syco-

phant sophists had converted into machines for fabricating decrees of proscription and confiscation, — which not only proscribed unborn thousands, but, by a refinement and innovation in rapine, visited the sins of the children upon the fathers, and beggared parents, not for the offences but for the misfortunes of their sons. I call upon you to restore this Directory and these Councils, and all this horrible profanation of the name of a republic, and to punish those who delivered you from them. I exhort you to reverence the den of these banditti as 'the sanctuary of the laws,' and to lament the day in which this intolerable nuisance was abated as 'an unfortunate day.' Last of all, I exhort you once more to follow that deplorable chimera, — the first lure that led you to destruction — the sovereignty of the people; although I know, and you have bitterly felt, that you never were so much slaves in fact, as since you have been sovereigns in theory!" Let me ask, Mr. Attorney-General, whether, upon his supposition, I have not given you a faithful translation of this Ode; and I think I may safely repeat, that, if this be the language of a Royalist addressed to Royalists, it must be the production of a lunatic. But, on my supposition, every thing is natural and consistent. You have the sentiments and language of a Jacobin: — it is therefore probable, if you take it as an historical republication of a Jacobin piece; it is just, if you take it as a satirical representation of Jacobin opinions and projects.

Perhaps it will be said, that this is the production of a Royalist writer, who assumes a Republican disguise to serve Royalist purposes. But if my Learned Friend chooses that supposition, I think an equal absurdity returns upon him in another shape. We must then suppose it to be intended to excite Republican discontent and insurrection against Buonaparte. It must then be taken as addressed to Republicans. Would Mr. Peltier, in that case, have disclosed his name as the publisher? Would he not much rather

have circulated the Ode in the name of Chenier, without prefixing his own, which was more than sufficient to warn his Jacobinical readers against all his counsels and exhortations. If he had circulated it under the name of Chenier only, he would indeed have hung out Republican colours; but by prefixing his own, he appears without disguise. You must suppose him then to say:—"Republicans! I, your mortal enemy for fourteen years, whom you have robbed of his all, —whom you have forbidden to revisit his country under pain of death,—who, from the beginning of the Revolution, has unceasingly poured ridicule upon your follies, and exposed your crimes to detestation,—who in the cause of his unhappy sovereign braved your daggers for three years, and who escaped, almost by miracle, from your assassins in September,—who has since been constantly employed in warning other nations by your example, and in collecting the evidence upon which history will pronounce your condemnation, —I who at this moment deliberately choose exile and honourable poverty, rather than give the slightest mark of external compliance with your abominable institutions,—I your most irreconcilable and indefatigable enemy, offer you counsel which you know can only be a snare into which I expect you to fall, though by the mere publication of my name I have sufficiently forewarned you that I can have no aim but that of your destruction." I ask you again, Gentlemen, is this common sense? Is it not as clear, from the name of the author, that it is not addressed to Jacobins, as, from the contents of the publication, that it is not addressed to Royalists? It may be the genuine work of Chenier; for the topics are such as he would employ: it may be a satire on Jacobinism; for the language is well adapted to such a composition: but it cannot be a Royalist's invective against Buonaparte, intended by him to stir up either Royalists or Republicans to the destruction of the First Consul.

I cannot conceive it to be necessary that I should

minutely examine this Poem to confirm my construction. There are one or two passages on which I shall make a few observations. The first is the contrast between the state of England and that of France, of which an ingenious friend * has favoured me with a translation, which I shall take the liberty of reading to you: —

"Her glorious fabric England rears
On law's fix'd base alone;
Law's guardian pow'r while each reveres,
England! thy people's freedom fears
No danger from the throne.

"For there, before almighty law,
High birth, high place, with pious awe,
In reverend homage bend:
There's man's free spirit, unconstrain'd,
Exults, in man's best rights maintain'd, —
Rights, which by ancient valour gain'd,
From age to age descend.

"Britons, by no base fear dismay'd,
May power's worst acts arraign.
Does tyrant force their rights invade?
They call on law's impartial aid,
Nor call that aid in vain.

"Hence, of her sacred charter proud,
With every earthly good endow'd,
O'er subject seas unfurl'd,
Britannia waves her standard wide; —
Hence, sees her freighted navies ride,
Up wealthy Thames' majestic tide,
The wonder of the world."

Here at first sight, you may perhaps think that the consistency of the Jacobin character is not supported — that the Republican disguise is thrown off, — that the Royalist stands unmasked before you: — but, on more consideration, you will find that such an inference would be too hasty. The leaders of the Revolution are now reduced to envy that British constitution

* Mr. Canning. — Ed.

which, in the infatuation of their presumptuous ignorance, they once rejected with scorn. They are now slaves (as themselves confess) because twelve years ago they did not believe Englishmen to be free. They cannot but see that England is the only popular government in Europe; and they are compelled to pay a reluctant homage to the justice of English principles. The praise of England is too striking a satire on their own government to escape them; and I may accordingly venture to appeal to all those who know any thing of the political circles of Paris, whether such contrasts between France and England as that which I have read to you be not the most favourite topics of the opponents of Buonaparte. But in the very next stanza:—

> Cependant, encore affligée
> Par l'odieuse hérédité,
> Londres de titres surchargée,
> Londres n'a pas *l'Egalité*:—

you see that though they are forced to render an unwilling tribute to our liberty, they cannot yet renounce all their fantastic and deplorable chimeras. They endeavour to make a compromise between the experience on which they cannot shut their eyes, and the wretched systems to which they still cling. Fanaticism is the most incurable of all mental diseases; because in all its forms,—religious, philosophical, or political,—it is distinguished by a sort of mad contempt for *experience*, which alone can correct the errors of practical judgment. And these democratical fanatics still speak of the odious principle of "hereditary government;" they still complain that we have not "*equality:*" they know not that this odious principle of inheritance is our bulwark against tyranny,—that if we had their pretended equality we should soon cease to be the objects of their envy. These are the sentiments which you would naturally expect from half-cured lunatics: but once more I ask you, whether they can be the

sentiments of Mr. Peltier? Would he complain that we have too much monarchy, or too much of what they call "aristocracy?" If he has any prejudices against the English government, must they not be of an entirely opposite kind?

I have only one observation more to make on this Poem. It relates to the passage which is supposed to be an incitement to assassination. In my way of considering the subject, Mr. Peltier is not answerable for that passage, whatever its demerits may be. It is put into the mouth of a Jacobin; and it will not, I think, be affirmed, that if it were an incitement to assassinate, it would be very unsuitable to his character. Experience, and very recent experience, has abundantly proved how widely the French Revolution has blackened men's imaginations,—what a daring and desperate cast it has given to their characters,—how much it has made them regard the most extravagant projects of guilt as easy and ordinary expedients,—and to what a horrible extent it has familiarised their minds to crimes which before were only known among civilised nations by the history of barbarous times, or as the subject of poetical fiction. But, thank God! Gentlemen, we in England have not learned to charge any man with inciting to assassination,—not even a member of that atrocious sect who have revived political assassination in Christendom,—except when we are compelled to do so by irresistible evidence. Where is that evidence here? In general it is immoral,—because it is indecent,—to speak with levity, still more to anticipate with pleasure, the destruction of any human being. But between this immorality and the horrible crime of inciting to assassination, there is a wide interval indeed. The real or supposed author of this Ode gives you to understand that he would hear with no great sorrow of the destruction of the First Consul. But surely the publication of that sentiment is very different from an exhortation to assassinate.

But, says my Learned Friend, why is the example of Brutus celebrated? Why are the French reproached with their baseness in not copying that example? Gentlemen, I have no judgment to give on the act of Marcus Brutus. I rejoice that I have not: I should not dare to condemn the acts of brave and virtuous men in extraordinary and terrible circumstances, and which have been, as it were, consecrated by the veneration of so many ages. Still less should I dare to weaken the authority of the most sacred rules of duty, by praises which would be immoral, even if the acts themselves were in some measure justified by the awful circumstances under which they were done. I am not the panegyrist of "those instances of doubtful public spirit at which morality is perplexed, reason is staggered, and from which affrighted nature recoils." * But whatever we may think of the act of Brutus, surely my Learned Friend will not contend that every allusion to it, every panegyric on it, which has appeared for eighteen centuries, in prose and verse, is an incitement to assassination. From the "*conspicuæ divina Philippica famæ*," down to the last schoolboy declamation, he will find scarce a work of literature without such allusions, and not very many without such panegyrics. I must say that he has construed this Ode more like an Attorney-General than a critic in poetry. According to his construction, almost every fine writer in our language is a preacher of murder.

Having said so much on the first of these supposed libels, I shall be very short on the two that remain: — the Verses ascribed to a Dutch Patriot, and the Parody of the Speech of Lepidus.

In the first of these, the piercing eye of Mr. Attorney-General has again discovered an incitement to assassinate, — the most learned incitement to assassinate that ever was addressed to such ignorant ruffians as are

* Burke, Works (quarto), vol. iv. p. 427.

most likely to be employed for such purposes!—in an obscure allusion, to an obscure, and perhaps fabulous, part of Roman history,—to the supposed murder of Romulus, about which none of us know any thing, and of which the Jacobins of Paris and Amsterdam probably never heard.

But the Apotheosis:—here my Learned Friend has a little forgotten himself;—he seems to argue as if Apotheosis always presupposed death. But he must know, that Augustus, and even Tiberius and Nero, were deified during their lives; and he cannot have forgotten the terms in which one of the court-poets of Augustus speaks of his master's divinity:—

—— "Præsens divus habebitur
Augustus, adjectis Britannis
Imperio." *

If any modern rival of Augustus should choose that path to Olympus, I think he will find it more steep and rugged than that by which Pollux and Hercules climbed to the ethereal towers; and that he must be content with "purpling his lips" with Burgundy on earth, as he has very little chance of doing so with nectar among the gods.

The utmost that can seriously be made of this passage is, that it is a wish for a man's death. I repeat, that I do not contend for the decency of publicly declaring such wishes, or even for the propriety of entertaining them. But the distance between such a wish and a persuasive to murder, is immense. Such a wish for a man's death is very often little more than a strong, though I admit not a very decent, way of expressing detestation of his character.

But without pursuing this argument any farther, I think myself entitled to apply to these Verses the same reasoning which I have already applied to the first supposed libel on Buonaparte. If they be the real composition of a pretended Dutch Patriot, Mr.

* Horace, lib. iii. ode 5.—Ed.

Peltier may republish them innocently: if they be a satire on such pretended Dutch patriots, they are not a libel on Buonaparte. Granting, for the sake of argument, that they did contain a serious exhortation to assassinate, is there any thing in such an exhortation inconsistent with the character of these pretended patriots? They who were disaffected to the mild and tolerant government of their flourishing country, because it did not exactly square with all their theoretical whimsies, — who revolted from that administration as tyrannical, which made Holland one of the wonders of the world for protected industry, for liberty of action and opinion, and for a prosperity which I may venture to call the greatest victory of man over hostile elements — who served in the armies of Robespierre, under the impudent pretext of giving liberty to their own country, and who have, finally, buried in the same grave its liberty, its independence, and perhaps its national existence, — such are men not entitled to much tenderness from a political satirist; and he will scarcely violate dramatic propriety if he impute to them any language, however criminal and detestable. They who could not brook the authority of their old, lazy, good-natured government, are not likely to endure with patience the yoke of that stern domination which they have brought upon themselves, and which, as far as relates to them, is only the just punishment of their crimes.

I know nothing more odious than their character, unless it be that of those who invoked the aid of the oppressors of Switzerland to be the deliverers of Ireland! The latter guilt has, indeed, peculiar aggravations. In the name of liberty they were willing to surrender their country into the hands of tyrants, the most lawless, faithless, and merciless that ever scourged Europe, — who, at the very moment of the negotiation, were covered with the blood of the unhappy Swiss, the martyrs of real independence and of real liberty. Their success would have been the destruction of the

only free community remaining in Europe, — of England, the only bulwark of the remains of European independence. Their means were the passions of an ignorant and barbarous peasantry, and a civil war, which could not fail to produce all the horrible crimes and horrible retaliations of the last calamity that can befal society, — a servile revolt. They sought the worst of ends by the most abominable of means. They laboured for the subjugation of the world at the expense of crimes and miseries which men of humanity and conscience would have thought too great a price for its deliverance.

The last of these supposed libels, Gentlemen, is the Parody on the speech of Lepidus, in the Fragments of Sallust. It is certainly a very ingenious and happy parody of an original, attended with some historical obscurity and difficulty, which it is no part of our present business to examine. This parody is said to have been clandestinely placed among the papers of one of the most amiable and respectable men in France, M. Camille Jourdan, in order to furnish a pretext for involving that excellent person in a charge of conspiracy. This is said to have been done by a spy of Fouché. Now, Gentlemen, I take this to be a satire on Fouché, — on his manufacture of plots, — on his contrivances for the destruction of innocent and virtuous men; and I should admit it to be a libel on Fouché, if it were possible to libel him. I own that I should like to see Fouché appear as a plaintiff, seeking reparation for his injured character, before any tribunal, safe from his fangs, — where he had not the power of sending the judges to Guiana or Madagascar. It happens that we know something of the history of M. Fouché, from a very credible witness against him, — from himself. You will perhaps excuse me for reading to you some passages of his letters in the year 1793, from which you will judge whether any satire can be so severe as the portrait he draws of himself: — "Convinced that there are no innocent men in this

infamous city" (the unhappy city of Lyons), "but those who are oppressed and loaded with irons by the assassins of the people" (he means the murderers who were condemned to death for their crimes), "we are on our guard against *the tears of repentance!* nothing can disarm our severity. They have not yet *dared* to solicit the repeal of your first decree for the annihilation of the city of Lyons! but scarcely anything has yet been done to carry it into execution." (Pathetic!) "The demolitions are too slow. More rapid means are necessary to republican impatience. The explosion of the mine, and the devouring activity of the flames can alone adequately represent the omnipotence of the people." (Unhappy populace, always the pretext, the instrument, and the victim of political crimes!) "Their will cannot be checked like that of tyrants — it ought to have the effects of thunder!" * The next specimen of this worthy gentleman which I shall give, is in a speech to the Jacobin Club of Paris, on the 21st of December, 1793, by his worthy colleague in the mission to Lyons, Collot d'Herbois: — "We are accused" (you, Gentlemen, will soon see how unjustly) "of being cannibals, men of blood; but it is in counter-revolutionary petitions, hawked about for signature by aristocrats, that this charge is made against us. They examine with the most scrupulous attention how the counter-revolutionists are put to death, and they affect to say, that they are not killed at one stroke." (He speaks for himself and his colleague Fouché, and one would suppose that he was going to deny the fact, — but nothing like it.) "Ah, Jacobins, did Chalier die at the first stroke?" (This Chalier was the Marat of Lyons.) "A drop of blood poured from generous veins goes to my heart" (humane creature!); "but I have no pity for conspirators." (He however proceeds to state a most undeniable proof of his compassion.) "We caused two hundred to be shot at once, and it is

* Moniteur, 24th November, 1793.

charged upon us as a crime!" (Astonishing! that such an act of humanity should be called a crime!) "They do not know that *it is a proof of our sensibility!* When twenty criminals are guillotined, the last of them dies twenty deaths: but these two hundred conspirators perished at once. They speak of sensibility; *we also are full of sensibility! The Jacobins have all the virtues! They are compassionate, humane, generous!*" (This is somewhat hard to be understood, but it is perfectly explained by what follows); "but they reserve these sentiments for the patriots who are their brethren, which the aristocrats never will be."*

The only remaining document with which I shall trouble you, is a letter from Fouché to his amiable colleague Collot d'Herbois, which, as might be expected in a confidential communication, breathes all the native tenderness of his soul:—"Let us be terrible, that we may run no risk of being feeble or cruel. Let us annihilate in our wrath, at a single blow, all rebels, all conspirators, all traitors" (comprehensive words in his vocabulary), "to spare ourselves the pain, the long agony, of punishing like kings!" (Nothing but philanthropy in this worthy man's heart.) "Let us exercise justice after the example of nature; let us avenge ourselves like a people; let us strike like the thunderbolt; and let even the ashes of our enemies disappear from the soil of liberty! Let the perfidious and ferocious English be attacked from every side; let the whole republic form a volcano to pour devouring lava upon them; may the infamous island which produced these monsters, who no longer belong to humanity, be for ever buried under the waves of the ocean! Farewell, my friend! Tears of joy stream from my eyes" (we shall soon see for what); "they deluge my soul."† Then follows a little postscript,

* Moniteur, 24th December.
† Moniteur, 25th December.

which explains the cause of this excessive joy, so hyperbolical in its language, and which fully justifies the indignation of the humane writer against the "ferocious English," who are so stupid and so cruel as never to have thought of a benevolent massacre, by way of sparing themselves the pain of punishing individual criminals. "We have only one way of celebrating victory. We send this evening two hundred and thirteen rebels to be shot!"

Such, Gentlemen, is M. Fouché, who is said to have procured this Parody to be mixed with the papers of my excellent friend Camille Jourdan, to serve as a pretext for his destruction. Fabricated plots are among the most usual means of such tyrants for such purposes; and if Mr. Peltier intended to libel—shall I say?—Fouché by this composition, I can easily understand both the Parody and the history of its origin. But if it be directed against Buonaparte to serve Royalist purposes, I must confess myself wholly unable to conceive why Mr. Peltier should have stigmatised his work, and deprived it of all authority and power of persuasion, by prefixing to it the infamous name of Fouché.

On the same principle I think one of the observations of my Learned Friend, on the title of this publication, may be retorted on him. He has called your attention to the title,—"L'Ambigu, ou Variétés atroces et amusantes." Now, Gentlemen, I must ask whether, had these been Mr. Peltier's own invectives against Buonaparte, he would himself have branded them as "atrocious?" But if they be specimens of the opinions and invectives of a French faction, the title is very natural, and the epithets are perfectly intelligible. Indeed I scarce know a more appropriate title for the whole tragi-comedy of the Revolution than that of "atrocious and amusing varieties."

My Learned Friend has made some observations on other parts of this publication, to show the spirit which animates the author; but they do not seem to

be very material to the question between us. It is no part of my case that Mr. Peltier has not spoken with some unpoliteness,—with some flippancy,—with more severity than my Learned Friend may approve, of factions and of administrations in France. Mr. Peltier cannot love the Revolution, or any government that has grown out of it and maintains it. The Revolutionists have destroyed his family; they have seized his inheritance; they have beggared, exiled, and proscribed himself. If he did not detest them he would be unworthy of living; and he would be a base hypocrite if he were to conceal his sentiments. But I must again remind you, that this is not an Information for not sufficiently honouring the French Revolution,—for not showing sufficient reverence for the Consular government. These are no crimes among us. England is not yet reduced to such an ignominious dependence. Our hearts and consciences are not yet in the bonds of so wretched a slavery. This is an Information for a libel on Buonaparte, and if you believe the principal intention of Mr. Peltier to have been to republish the writings or to satirise the character of other individuals, you must acquit him of a libel on the First Consul.

Here, Gentlemen, I think I might stop, if I had only to consider the defence of Mr. Peltier. I trust that you are already convinced of his innocence. I fear I have exhausted your patience, as I am sure I have very nearly exhausted my own strength. But so much seems to me to depend on your verdict, that I cannot forbear from laying before you some considerations of a more general nature.

Believing as I do that we are on the eve of a great struggle,—that this is only the first battle between reason and power,—that you have now in your hands, committed to your trust, the only remains of free discussion in Europe, now confined to this kingdom; addressing you, therefore, as the guardians of the most important interests of mankind; convinced that

the unfettered exercise of reason depends more on your present verdict than on any other that was ever delivered by a jury, I cannot conclude without bringing before you the sentiments and examples of our ancestors in some of those awful and perilous situations by which Divine Providence has in former ages tried the virtue of the English nation. We are fallen upon times in which it behoves us to strengthen our spirits by the contemplation of great examples of constancy. Let us seek for them in the annals of our forefathers.

The reign of Queen Elizabeth may be considered as the opening of the modern history of England, especially in its connexion with the modern system of Europe, which began about that time to assume the form that it preserved till the French Revolution. It was a very memorable period, the maxims of which ought to be engraven on the head and heart of every Englishman. Philip II., at the head of the greatest empire then in the world, was openly aiming at universal domination; and his project was so far from being thought chimerical by the wisest of his contemporaries, that in the opinion of the great Duc de Sully he must have been successful, "if, by a most singular combination of circumstances, he had not at the same time been resisted by two such strong heads as those of Henry IV. and Queen Elizabeth." To the most extensive and opulent dominions, the most numerous and disciplined armies, the most renowned captains, the greatest revenue, he added also the most formidable power over opinion. He was the chief of a religious faction, animated by the most atrocious fanaticism, and prepared to second his ambition by rebellion, anarchy, and regicide, in every Protestant state. Elizabeth was among the first objects of his hostility. That wise and magnanimous Princess placed herself in the front of the battle for the liberties of Europe. Though she had to contend at home with his fanatical faction, which almost occupied Ire-

land, which divided Scotland, and was not of contemptible strength in England, she aided the oppressed inhabitants of the Netherlands in their just and glorious resistance to his tyranny; she aided Henry the Great, in suppressing the abominable rebellion which anarchical principles had excited and Spanish arms had supported in France; and after a long reign of various fortune, in which she preserved her unconquered spirit through great calamities, and still greater dangers, she at length broke the strength of the enemy, and reduced his power within such limits as to be compatible with the safety of England, and of all Europe. Her only effectual ally was the spirit of her people: and her policy flowed from that magnanimous nature which in the hour of peril teaches better lessons than those of cold reason. Her great heart inspired her with the higher and a nobler wisdom, which disdained to appeal to the low and sordid passions of her people even for the protection of their low and sordid interests; because she knew, or rather she felt, that these are effeminate, creeping, cowardly, short-sighted passions, which shrink from conflict even in defence of their own mean objects. In a righteous cause she roused those generous affections of her people which alone teach boldness, constancy, and foresight, and which are therefore the only safe guardians of the lowest as well as the highest interests of a nation. In her memorable address to her army, when the invasion of the kingdom was threatened by Spain, this woman of heroic spirit disdained to speak to them of their ease and their commerce, and their wealth and their safety. No! She touched another chord;—she spoke of their national honour, of their dignity as Englishmen, of "the foul scorn that Parma or Spain should dare to invade the borders of her realms!" She breathed into them those grand and powerful sentiments which exalt vulgar men into heroes,—which led them into the battle of their country armed with holy and irresistible enthusiasm,—which even

cover with their shield all the ignoble interests that base calculation and cowardly selfishness tremble to hazard, but shrink from defending. A sort of prophetic instinct,—if I may so speak,—seems to have revealed to her the importance of that great instrument for rousing and guiding the minds of men, of the effects of which she had had no experience,—which, since her time, has changed the condition of the world,—but which few modern statesmen have thoroughly understood or wisely employed,—which is no doubt connected with many ridiculous and degrading details,—which has produced, and which may again produce, terrible mischiefs,—but the influence of which must after all be considered as the most certain effect and the most efficacious cause of civilisation,—and which, whether it be a blessing or a curse, is the most powerful engine that a politician can move:—I mean the press. It is a curious fact, that, in the year of the Armada, Queen Elizabeth caused to be printed the first Gazettes that ever appeared in England; and I own, when I consider that this mode of rousing a national spirit was then absolutely unexampled,—that she could have no assurance of its efficacy from the precedents of former times,—I am disposed to regard her having recourse to it as one of the most sagacious experiments,—one of the greatest discoveries of political genius,—one of the most striking anticipations of future experience, that we find in history. I mention it to you, to justify the opinion that I have ventured to state, of the close connexion of our national spirit with our press, and even our periodical press. I cannot quit the reign of Elizabeth without laying before you the maxims of her policy, in the language of the greatest and wisest of men. Lord Bacon, in one part of his discourse on her reign, speaks thus of her support of Holland:—"But let me rest upon the honourable and continual aid and relief she hath given to the distressed and desolate people of the Low Countries; a people re-

commended unto her by ancient confederacy and daily intercourse, by their cause so innocent, and their fortune so lamentable!"—In another passage of the same discourse, he thus speaks of the general system of her foreign policy, as the protector of Europe, in words too remarkable to require any commentary:—"Then it is her government, and her government alone, that hath been the sconce and fort of all Europe, which hath lett this proud nation from overrunning all. If any state be yet free from his factions erected in the bowels thereof; if there be any state wherein this faction is erected that is not yet fired with civil troubles; if there be any state under his protection that enjoyeth moderate liberty, upon whom he tyranniseth not; it is the mercy of this renowned Queen that standeth between them and their misfortunes!"

The next great conspirator against the rights of men and of nations, against the security and independence of all European states, against every kind and degree of civil and religious liberty, was Louis XIV. In his time the character of the English nation was the more remarkably displayed, because it was counteracted by an apostate and perfidious government. During great part of his reign, you know that the throne of England was filled by princes who deserted the cause of their country and of Europe,—who were the accomplices and the tools of the oppressor of the world,—who were even so unmanly, so unprincely, so base, as to have sold themselves to his ambition,—who were content that he should enslave the Continent, if he enabled them to enslave Great Britain. These princes, traitors to their own royal dignity and to the feelings of the generous people whom they ruled, preferred the condition of the first slave of Louis XIV. to the dignity of the first freeman of England. Yet, even under these princes, the feelings of the people of this kingdom were displayed on a most memorable occasion towards foreign

sufferers and foreign oppressors. The Revocation of the Edict of Nantes threw fifty thousand French Protestants on our shores. They were received, as I trust the victims of tyranny ever will be in this land, which seems chosen by Providence to be the home of the exile,—the refuge of the oppressed. They were welcomed by a people high-spirited as well as humane, who did not insult them by clandestine charity,—who did not give alms in secret lest their charity should be detected by neighbouring tyrants! No! they were publicly and nationally welcomed and relieved. They were bid to raise their voice against their oppressor, and to proclaim their wrongs to all mankind. They did so. They were joined in the cry of just indignation by every Englishman worthy of the name. It was a fruitful indignation, which soon produced the successful resistance of all Europe to the common enemy. Even then, when Jeffreys disgraced the Bench which his Lordship* now adorns, no refugee was deterred by prosecution for libel from giving vent to his feelings,—from arraigning the oppressor in the face of all Europe.

During this ignominious period of our history, a war arose on the Continent, which cannot but present itself to the mind on such an occasion as this,—the only war that was ever made on the avowed ground of attacking a free press. I speak of the invasion of Holland by Louis XIV. The liberties which the Dutch gazettes had taken in discussing his conduct were the sole cause of this very extraordinary and memorable war, which was of short duration, unprecedented in its avowed principle, and most glorious in its event for the liberties of mankind. That republic, at all times so interesting to Englishmen,—in the worst times of both countries our brave enemies,—in their best times our most faithful and valuable friends,—was then charged with the defence of a free

* Lord Ellenborough. — Ed.

press against the oppressor of Europe, as a sacred trust for the benefit of all generations. They felt the sacredness of the deposit; they felt the dignity of the station in which they were placed; and though deserted by the un-English Government of England, they asserted their own ancient character, and drove out the great armies and great captains of the oppressor with defeat and disgrace. Such was the result of the only war hitherto avowedly undertaken to oppress a free country because she allowed the free and public exercise of reason:—and may the God of Justice and Liberty grant that such may ever be the result of wars made by tyrants against the rights of mankind, especially of those against that right which is the guardian of every other!

This war, Gentlemen, had the effect of raising up from obscurity the great Prince of Orange, afterwards King William III.—the deliverer of Holland, the deliverer of England, the deliverer of Europe,—the only hero who was distinguished by such a happy union of fortune and virtue that the objects of his ambition were always the same with the interests of humanity,—perhaps the only man who devoted the whole of his life exclusively to the service of mankind. This most illustrious benefactor of Europe,—this "hero without vanity or passion," as he has been justly and beautifully called by a venerable prelate*, who never made a step towards greatness without securing or advancing liberty, who had been made Stadtholder of Holland for the salvation of his own country, was soon after made King of England for the deliverance of ours. When the people of Great Britain had once more a government worthy of them, they returned to the feelings and principles of their ancestors, and resumed their former station and their former duties as protectors of the independence of nations. The people of England, delivered from a

* Dr. Shipley, Bishop of St. Asaph.

government which disgraced, oppressed, and betrayed them, fought under William as their forefathers had fought under Elizabeth, and after an almost uninterrupted struggle of more than twenty years, in which they were often abandoned by fortune, but never by their own constancy and magnanimity, they at length once more defeated those projects of guilty ambition, boundless aggrandisement, and universal domination, which had a second time threatened to overwhelm the whole civilised world. They rescued Europe from being swallowed up in the gulf of extensive empire, which the experience of all times points out as the grave of civilisation,—where men are driven by violent conquest and military oppression into lethargy and slavishness of heart,—where after their arts have perished with the mental vigour from which they spring, they are plunged by the combined power of effeminacy and ferocity into irreclaimable and hopeless barbarism. Our ancestors established the safety of their own country by providing for that of others, and rebuilt the European system upon such firm foundations, that nothing less than the tempest of the French Revolution could have shaken it.

This arduous struggle was suspended for a short time by the Peace of Ryswick. The interval between that treaty and the War of the Succession enables us to judge how our ancestors acted in a very peculiar situation which requires maxims of policy very different from those which usually govern states. The treaty which they had concluded was in truth and substance only a truce. The ambition and the power of the enemy were such as to render real peace impossible; and it was perfectly obvious that the disputed succession of the Spanish monarchy would soon render it no longer practicable to preserve even the appearance of amity. It was desirable, however, not to provoke the enemy by unseasonable hostility; but it was still more desirable,—it was absolutely necessary, to keep up the national jealousy and indignation

against him who was soon to be their open enemy. It might naturally have been apprehended that the press might have driven into premature war a prince who not long before had been violently exasperated by the press of another free country. I have looked over the political publications of that time with some care, and I can venture to say, that at no period were the system and projects of Louis XIV. animadverted on with more freedom and boldness than during that interval. Our ancestors, and the heroic Prince who governed them, did not deem it wise policy to disarm the national mind for the sake of prolonging a truce:—they were both too proud and too wise to pay so great a price for so small a benefit.

In the course of the eighteenth century, a great change took place in the state of political discussion in this country:—I speak of the multiplication of newspapers. I know that newspapers are not very popular in this place, which is, indeed, not very surprising, because they are known here only by their faults. Their publishers come here only to receive the chastisement due to their offences. With all their faults, I own, I cannot help feeling some respect for whatever is a proof of the increased curiosity and increased knowledge of mankind; and I cannot help thinking, that if somewhat more indulgence and consideration were shown for the difficulties of their situation, it might prove one of the best correctives of their faults, by teaching them that self-respect which is the best security for liberal conduct towards others. But however that may be, it is very certain that the multiplication of these channels of popular information has produced a great change in the state of our domestic and foreign politics. At home, it has, in truth, produced a gradual revolution in our government. By increasing the number of those who exercise some sort of judgment on public affairs, it has created a substantial democracy, infinitely more important than those democratical forms which have

been the subject of so much contest. So that I may venture to say, England has not only in its *forms* the most democratical government that ever existed in a great country, but, in *substance*, has the most democratical government that ever existed in *any* country; —if the most *substantial* democracy be that state in which the greatest number of men feel an interest and express an opinion upon political questions, and in which the greatest number of judgments and wills concur in influencing public measures.

The same circumstance gave great additional importance to our discussion of continental politics. That discussion was no longer, as in the preceding century, confined to a few pamphlets, written and read only by men of education and rank, which reached the multitude very slowly and rarely. In newspapers an almost daily appeal was made, directly or indirectly, to the judgment and passions of almost every individual in the kingdom upon the measures and principles not only of his own country, but of every state in Europe. Under such circumstances, the tone of these publications in speaking of foreign governments became a matter of importance. You will excuse me, therefore, if, before I conclude, I remind you of the general nature of their language on one or two very remarkable occasions, and of the boldness with which they arraigned the crimes of powerful sovereigns, without any check from the laws and magistrates of their own country. This toleration, or rather this protection, was too long and uniform to be accidental. I am, indeed, very much mistaken if it be not founded upon a policy which this country cannot abandon without sacrificing her liberty and endangering her national existence.

The first remarkable instance which I shall choose to state of the unpunished and protected boldness of the English press, — of the freedom with which they animadverted on the policy of powerful sovereigns, is on the Partition of Poland in 1772, — an act not per-

haps so horrible in its means, nor so deplorable in its *immediate* effects, as some other atrocious invasions of national independence which have followed it, but the most abominable in its general tendency and ultimate consequences of any political crime recorded in history, because it was the first practical breach in the system of Europe, — the first example of atrocious robbery perpetrated on unoffending countries, which has been since so liberally followed, and which has broken down all the barriers of habit and principle that guarded defenceless states. The perpetrators of this atrocious crime were the most powerful sovereigns of the Continent, whose hostility it certainly was not the interest of Great Britain wantonly to incur. They were the most illustrious princes of their age; and some of them were doubtless entitled to the highest praise for their domestic administration, as well as for the brilliant qualities which distinguished their character. But none of these circumstances, — no dread of their resentment, — no admiration of their talents, — no consideration for their rank, — silenced the animadversion of the English press. Some of you remember, — all of you know, that a loud and unanimous cry of reprobation and execration broke out against them from every part of this kingdom. It was perfectly uninfluenced by any considerations of our own mere national interest, which might perhaps be supposed to be rather favourably affected by that partition. It was not, as in some other countries, the indignation of rival robbers, who were excluded from their share of the prey: it was the moral anger of disinterested spectators against atrocious crimes, — the gravest and the most dignified moral principle which the God of Justice has implanted in the human heart, — that one, the dread of which is the only restraint on the actions of powerful criminals, and the promulgation of which is the only punishment that can be inflicted on them. It is a restraint which ought not to be weakened: it is a punishment which no good man can desire to

mitigate. That great crime was spoken of as it deserved in England. Robbery was not described by any courtly circumlocutions: rapine was not called "policy:" nor was the oppression of an innocent people termed a "*mediation*" in their domestic differences. No prosecutions, — no Criminal Informations followed the liberty and the boldness of the language then employed. No complaints even appear to have been made from abroad; — much less any insolent menaces against the free constitution which protected the English press. The people of England were too long known throughout Europe for the proudest potentate to expect to silence our press by such means.

I pass over the second partition of Poland in 1792 (you all remember what passed on that occasion — the universal abhorrence expressed by every man and every writer of every party, — the succours that were publicly preparing by large bodies of individuals of all parties for the oppressed Poles); I hasten to the final dismemberment of that unhappy kingdom, which seems to me the most striking example in our history of the habitual, principled, and deeply-rooted forbearance of those who administer the law towards political writers. We were engaged in the most extensive, bloody, and dangerous war that this country ever knew; and the parties to the dismemberment of Poland were our allies, and our only powerful and effective allies. We had every motive of policy to court their friendship: every reason of state seemed to require that we should not permit them to be abused and vilified by English writers. What was the fact? Did any Englishman consider himself at liberty, on account of temporary interests, however urgent, to silence those feelings of humanity and justice which guard the certain and permanent interests of all countries? You all remember that every voice, and every pen, and every press in England were unceasingly employed to brand that abominable robbery. You remember that this was not confined to private

writers, but that the same abhorrence was expressed by every member of both Houses of Parliament who was not under the restraints of ministerial reserve. No minister dared even to blame the language of honest indignation which might be very inconvenient to his most important political projects; and I hope I may venture to say, that no English assembly would have endured such a sacrifice of eternal justice to any miserable interest of an hour. Did the Law-officers of the Crown venture to come into a court of justice to complain of the boldest of the publications of that time? They did not. I do not say that they felt any disposition to do so; — I believe that they could not. But I do say, that if they had, — if they had spoken of the necessity of confining our political writers to cold narrative and unfeeling argument, — if they had informed a jury, that they did not prosecute history, but invective, — that if private writers be at all to blame great princes, it must be with moderation and decorum, — the sound heads and honest hearts of an English jury would have confounded such sophistry, and would have declared, by their verdict, that moderation of language is a relative term, which varies with the subject to which it is applied, — that atrocious crimes are not to be related as calmly and coolly as indifferent or trifling events, — that if there be a decorum due to exalted rank and authority, there is also a much more sacred decorum due to virtue and to human nature, which would be outraged and trampled under foot, by speaking of guilt in a lukewarm language, falsely called moderate.

Soon after, Gentlemen, there followed an act, in comparison with which all the deeds of rapine and blood perpetrated in the world are innocence itself, — the invasion and destruction of Switzerland, — that unparalleled scene of guilt and enormity, — that unprovoked aggression against an innocent country, which had been the sanctuary of peace and liberty for three centuries, — respected as a sort of sacred

territory by the fiercest ambition, — raised, like its own mountains, beyond the region of the storms which raged around on every side, — the only warlike people that never sent forth armies to disturb their neighbours, — the only government that ever accumulated treasures without imposing taxes, — an innocent treasure, unstained by the tears of the poor, the inviolate patrimony of the commonwealth, which attested the virtue of a long series of magistrates, but which at length caught the eye of the spoiler, and became the fatal occasion of their ruin! Gentlemen, the destruction of such a country, — "its cause so innocent and its fortune so lamentable!" — made a deep impression on the people of England. I will ask my Learned Friend, if we had then been at peace with the French republic, whether we must have been silent spectators of the foulest crimes that ever blotted the name of humanity? — whether we must, like cowards and slaves, have repressed the compassion and indignation with which that horrible scene of tyranny had filled our hearts? Let me suppose, Gentlemen, that Aloys Reding, who has displayed in our times the simplicity, magnanimity, and piety of ancient heroes, had, after his glorious struggle, honoured this kingdom by choosing it as his refuge, — that, after performing prodigies of valour at the head of his handful of heroic peasants on the field of Morgarten (where his ancestor, the Landamman Reding, had, five hundred years before, defeated the first oppressors of Switzerland), he had selected this country to be his residence, as the chosen abode of liberty, as the ancient and inviolable asylum of the oppressed, would my Learned Friend have had the boldness to have said to this hero, "that he must hide his tears" (the tears shed by a hero over the ruins of his country!) "lest they might provoke the resentment of Reubell or Rapinat, — that he must smother the sorrow and the anger with which his heart was loaded, — that he must breathe his murmurs low, lest they might be overheard by the oppressor!"

Would this have been the language of my Learned Friend? I know that it would not. I know, that by such a supposition, I have done wrong to his honourable feelings — to his honest English heart. I am sure that he knows as well as I do, that a nation which should *thus* receive the oppressed of other countries, would be preparing its own neck for the yoke. He knows the slavery which such a nation would deserve, and must speedily incur. He knows, that sympathy with the unmerited sufferings of others, and disinterested anger against their oppressors, are, if I may so speak, the masters which are appointed by Providence to teach us fortitude in the defence of our own rights, — that selfishness is a dastardly principle, which betrays its charge and flies from its post, — and that those only can defend themselves with valour, who are animated by the moral approbation with which they can survey their sentiments towards others, — who are ennobled in their own eyes by a consciousness that they are fighting for justice as well as interest, — a consciousness which none can feel, but those who have felt for the wrongs of their brethren. These are the sentiments which my Learned Friend would have felt. He would have told the hero: — "Your confidence is not deceived: this is still that England, of which the history may, perhaps, have contributed to fill your heart with the heroism of liberty. Every other country of Europe is crouching under the bloody tyrants who destroyed your country: we are unchanged. We are still the same people which received with open arms the victims of the tyranny of Philip II. and Louis XIV. We shall not exercise a cowardly and clandestine humanity. Here we are not so dastardly as to rob you of your greatest consolation; — here, protected by a free, brave, and high-minded people, you may give vent to your indignation, — you may proclaim the crimes of your tyrants, — you may devote them to the execration of mankind. There is still one spot upon earth in which *they are* abhorred, without being dreaded!"

I am aware, Gentlemen, that I have already abused your indulgence; but I must entreat you to bear with me for a short time longer, to allow me to suppose a case which might have occurred, in which you will see the horrible consequences of enforcing rigorously principles of law, which I cannot contest, against political writers. We might have been at peace with France during the whole of that terrible period which elapsed between August 1792 and 1794, which has been usually called the "reign of Robespierre!" — the only series of crimes, perhaps, in history, which, in spite of the common disposition to exaggerate extraordinary facts, has been beyond measure underrated in public opinion. I say this, Gentlemen, after an investigation, which I think entitles me to affirm it with confidence. Men's minds were oppressed by the atrocity and the multitude of crimes; their humanity and their indolence took refuge in scepticism from such an overwhelming mass of guilt: and the consequence was, that all these unparalleled enormities, though proved, not only with the fullest historical, but with the strictest judicial evidence, were at the time only half-believed, and are now scarcely half-remembered. When these atrocities, — of which the greatest part are as little known to the public in general as the campaigns of Genghis Khan, but are still protected from the scrutiny of men by the immensity of those voluminous records of guilt in which they are related, and under the mass of which they will lie buried, till some historian be found with patience and courage enough to drag them forth into light, for the shame, indeed, but for the instruction of mankind, — which had the peculiar malignity, through the pretexts with which they were covered, of making the noblest objects of human pursuit seem odious and detestable, — which had almost made the names of liberty, reformation, and humanity, synonymous with anarchy, robbery, and murder, — which thus threatened not only to extinguish every principle of improvement, to

arrest the progress of civilised society, and to disinherit future generations of that rich succession to be expected from the knowledge and wisdom of the present, but to destroy the civilisation of Europe (which never gave such a proof of its vigour and robustness, as in being able to resist their destructive power), — when all these horrors were acting in the greatest empire of the Continent, I will ask my Learned Friend, if we had then been at peace with France, how English writers were to relate them so as to escape the charge of libelling a friendly Government?

When Robespierre, in the debates in the National Convention on the mode of murdering their blameless sovereign, objected to the formal and tedious mode of murder called a "trial," and proposed to put him immediately to death without trial, "*on the principles of insurrection*," — because, to doubt the guilt of the King would be to doubt of the innocence of the Convention, and if the King were not a traitor, the Convention must be rebels, — would my Learned Friend have had an English writer state all this with "decorum and moderation?" Would he have had an English writer state, that though this reasoning was not perfectly agreeable to our national laws, or perhaps to our national prejudices, yet it was not for him to make any observations on the judicial proceedings of foreign states? When Marat, in the same Convention, called for two hundred and seventy thousand heads, must our English writers have said, that the remedy did, indeed, seem to their weak judgment rather severe; but that it was not for them to judge the conduct of so illustrious an assembly as the National Convention, or the suggestions of so enlightened a statesman as M. Marat? When that Convention resounded with applause at the news of several hundred aged priests being thrown into the Loire, and particularly at the exclamation of Carrier, who communicated the intelligence: — "*What a revolutionary torrent is the Loire!*"—when these suggestions

and narratives of murder, which have hitherto been only hinted and whispered in the most secret çabals, in the darkest caverns of banditti, were triumphantly uttered, patiently endured, and even loudly applauded by an assembly of seven hundred men, acting in the sight of all Europe, would my Learned Friend have wished that there had been found in England a single writer so base as to deliberate upon the most safe, decorous, and polite manner of relating all these things to his countrymen? When Carrier ordered five hundred children under fourteen years to be shot, the greater part of whom escaped the fire from their size, — when the poor victims ran for protection to the soldiers, and were bayoneted clinging round their knees, would my Friend — But I cannot pursue the strain of interrogation; it is too much! It would be a violence which I cannot practise on my own feelings; it would be an outrage to my Friend; it would be an affront to you; it would be an insult to humanity.

No! better, — ten thousand times better, would it be that every press in the world were burnt, — that the very use of letters were abolished, — that we were returned to the honest ignorance of the rudest times, than that the results of civilisation should be made subservient to the purposes of barbarism; — than that literature should be employed to teach a toleration for cruelty, — to weaken moral hatred for guilt, — to deprave and brutalise the human mind. I know that I speak my Friend's feelings as well as my own, when I say, God forbid that the dread of any punishment should ever make any Englishman an accomplice in so corrupting his countrymen, — a public teacher of depravity and barbarity!

Mortifying and horrible as the idea is, I must remind you, Gentlemen, that even at that time, even under the reign of Robespierre, my Learned Friend, if he had then been Attorney-General, might have been compelled by some most deplorable necessity, to have

come into this Court to ask your verdict against the libellers of Barrère and Collot d'Herbois. Mr. Peltier then employed his talents against the enemies of the human race, as he has uniformly and bravely done. I do not believe that any peace, any political considerations, any fear of punishment, would have silenced him. He has shown too much honour and constancy, and intrepidity, to be shaken by such circumstances as these. My Learned Friend might then have been compelled to have filed a Criminal Information against Mr. Peltier, for "wickedly and maliciously intending to vilify and degrade Maximilian Robespierre, President of the Committee of Public Safety of the French Republic!" He might have been reduced to the sad necessity of appearing before you to belie his own better feelings by prosecuting Mr. Peltier for publishing those sentiments which my Friend himself had a thousand times felt, and a thousand times expressed. He might have been obliged even to call for punishment upon Mr. Peltier, for language which he and all mankind would for ever despise Mr. Peltier, if he were not to employ. Then indeed, Gentlemen, we should have seen the last humiliation fall on England; —the tribunals, the spotless and venerable tribunals of this free country, reduced to be the ministers of the vengeance of Robespierre! What could have rescued us from this last disgrace?—the honesty and courage of a jury. They would have delivered the judges of their country from the dire necessity of inflicting punishment on a brave and virtuous man, because he spoke truth of a monster. They would have despised the threats of a foreign tyrant as their ancestors braved the power of oppressors at home.

In the court where we are now met, Cromwell twice sent a satirist on his tyranny to be convicted and punished as a libeller, and in this court,—almost in sight of the scaffold streaming with the blood of his Sovereign,—within hearing of the clash of his bayonets which drove out Parliaments with scorn and con-

tumely,—a jury twice rescued the intrepid satirist* from his fangs, and sent out with defeat and disgrace the Usurper's Attorney-General from what he had the impudence to call *his* court! Even then, Gentlemen, when all law and liberty were trampled under the feet of a military banditti,—when those great crimes were perpetrated in a high place and with a high hand against those who were the objects of public veneration, which more than any thing else upon earth overwhelm the minds of men, break their spirits, and confound their moral sentiments, obliterate the distinctions between right and wrong in their understanding, and teach the multitude to feel no longer any reverence for that justice which they thus see triumphantly dragged at the chariot wheels of a tyrant,—even then, when this unhappy country, triumphant indeed abroad but enslaved at home, had no prospect but that of a long succession of tyrants "wading through slaughter to a throne,"—even then, I say, when all seemed lost, the unconquerable spirit of English liberty survived in the hearts of English jurors. That spirit is, I trust in God, not extinct: and if any modern tyrant were, in the plenitude of his insolence, to hope to overawe an English jury, I trust and I believe that they would tell him:—"Our ancestors braved the bayonets of Cromwell;—we bid defiance to yours. Contempsi Catilinæ gladios;—non pertimescam tuos!"

What could be such a tyrant's means of overawing a jury? As long as their country exists, they are girt round with impenetrable armour. Till the destruction of their country, no danger can fall upon them for the performance of their duty. And I do trust that there is no Englishman so unworthy of life as to desire to outlive England. But if any of us are condemned to the cruel punishment of surviving our country—if in the inscrutable counsels of Provi-

* Lilburne.

dence, this favoured seat of justice and liberty, — this noblest work of human wisdom and virtue, be destined to destruction (which I shall not be charged with national prejudice for saying would be the most dangerous wound ever inflicted on civilisation), at least, let us carry with us into our sad exile the consolation that we ourselves have not violated the rights of hospitality to exiles, — that we have not torn from the altar the suppliant who claimed protection as the voluntary victim of loyalty and conscience.

Gentlemen, I now leave this unfortunate Gentleman in your hands. His character and his situation might interest your humanity: but, on his behalf, I only ask justice from you. I only ask a favourable construction of what cannot be said to be more than ambiguous language; and this you will soon be told from the highest authority is a part of justice.

A CHARGE,

DELIVERED TO THE GRAND JURY

OF THE

ISLAND OF BOMBAY,

ON THE 20TH JULY, 1811.

GENTLEMEN OF THE GRAND JURY,

The present calendar is unfortunately remarkable for the number and enormity of crimes. To what cause we are to impute the very uncommon depravity which has, in various forms, during the last twelve months, appeared before this Court, it is difficult, and perhaps impossible, to determine. But the length of this calendar may probably be, in a great measure, ascribed to the late commendable disuse of irregular punishment at the Office of Police: so that there may be not so much an increase of crimes as of regular trials.

To frame and maintain a system of police, warranted by law, vigorous enough for protection, and with sufficient legal restraints to afford a security against oppression, must be owned to be a matter of considerable difficulty in the crowded, mixed, and shifting population of a great Indian sea-port. It is no wonder, then, that there should be defects in our system, both in the efficacy of its regulations and in the legality of its principles. And this may be mentioned with more liberty, because these defects have originated long before the time of any one now in

authority; and have rather, indeed, arisen from the operation of time and chance on human institutions, than from the fault of any individual. The subject has of late occupied much of my attention. Government have been pleased to permit me to lay my thoughts before them,—a permission of which I shall in a few days avail myself; and I hope that my diligent inquiry and long reflection may contribute somewhat to aid their judgment in the establishment of a police which may be legal, vigorous, and unoppressive.

In reviewing the administration of law in this place since I have presided here, two circumstances present themselves, which appear to deserve a public explanation.

The first relates to the principles adopted by the Court in cases of commercial insolvency.

In India, no law compels the equal distribution of the goods of an insolvent merchant: we have no system of bankrupt laws. The consequence is too well known. Every mercantile failure has produced a disreputable scramble, in which no individual could be blamed; because, if he were to forego his rights, they would not be sacrificed to equitable division, but to the claims of a competitor no better entitled than himself. A few have recovered all, and the rest have lost all. Nor was this the worst. Opulent commercial houses, either present, or well served by vigilant agents, almost always foresaw insolvency in such time as to secure themselves. But old officers, widows, and orphans in Europe, could know nothing of the decaying credit of their Indian bankers, and they had no agents but those bankers themselves: they, therefore, were the victims of every failure. The rich generally saved what was of little consequence to them, and the poor almost constantly lost their all. These scenes have frequently been witnessed in various parts of India: they have formerly occurred here. On the death of one unfortunate gentleman,

since I have been here, the evil was rather dreaded than felt.

Soon after my arrival, I laid before the British merchants of this island a plan for the equal distribution of insolvent estates, of which accident then prevented the adoption. Since that time, the principle of the plan has been adopted in several cases of actual or of apprehended insolvency, by a conveyance of the whole estate to trustees, for the equal benefit of all the creditors. Some disposition to adopt similar arrangements appears of late to manifest itself in Europe. And certainly nothing can be better adapted to the present dark and unquiet condition of the commercial world. Wherever they are adopted early, they are likely to prevent bankruptcy. A very intelligent merchant justly observed to me, that, under such a system, the early disclosure of embarrassment would not be attended with that shame and danger which usually produce concealment and final ruin. In all cases, and at every period, such arrangements would limit the evils of bankruptcy to the least possible amount. It cannot, therefore, be matter of wonder that a court of justice should protect such a system with all the weight of their opinion, and to the utmost extent of their legal power.

I by no means presume to blame those creditors who, on the first proposal of this experiment, withheld their consent, and preferred the assertion of their legal rights. They had, I dare say, been ill-used by their debtors, who might personally be entitled to no indulgence from them. It is too much to require of men, that, under the influence of cruel disappointment and very just resentment, they should estimate a plan of public utility in the same manner with a dispassionate and disinterested spectator. But experience and reflection will in time teach them, that in seeking to gratify a just resentment against a culpable insolvent, they, in fact, direct their hostility against

the unoffending and helpless part of their fellow-creditors.

One defect in this voluntary system of bankrupt laws must be owned to be considerable: it is protected by no penalties against the fraudulent concealment of property. There is no substitute for such penalties, but the determined and vigilant integrity of trustees. I have, therefore, with pleasure, seen that duty undertaken by European gentlemen of character and station. Besides the great considerations of justice and humanity to the creditors, I will confess that I am gratified by the interference of English gentlemen to prevent the fall of eminent or ancient commercial families among the natives of India.*

The second circumstance which I think myself now bound to explain, relates to the dispensation of penal law.

Since my arrival here, in May, 1804, the punishment of death has not been inflicted by this Court. Now, the population subject to our jurisdiction, either locally or personally, cannot be estimated at less than two hundred thousand persons. Whether any evil consequence has yet arisen from so unusual — and in the British dominions unexampled — a circumstance as the disuse of capital punishment, for so long a period as seven years, among a population so considerable, is a question which you are entitled to ask,

* . . . "I am persuaded that your feelings would have entirely accorded with mine; convinced that, both as jurors and as private gentlemen, you will always consider yourselves as intrusted, in this remote region of the earth, with the honour of that beloved country, which, I trust, becomes more dear to you, as I am sure it does to me, during every new moment of absence; that, in your intercourse with each other as well as with the natives of India, you will keep unspotted the ancient character of the British nation, — renowned in every age, and in no age more than the present, for valour, for justice, for humanity, and generosity, — for every virtue which supports, as well as for every talent and accomplishment which adorns human society." — *Charge*, 21st July, 1805. — ED.

and to which I have the means of affording you a satisfactory answer.

The criminal records go back to the year 1756. From May, 1756, to May, 1763, the capital convictions amounted to one hundred and forty-one; and the executions were forty-seven. The annual average of persons who suffered death was almost seven; and the annual average of capital crimes ascertained to have been perpetrated was nearly twenty. From May, 1804, to May, 1811, there have been one hundred and nine capital convictions. The annual average, therefore, of capital crimes, legally proved to have been perpetrated during that period, is between fifteen and sixteen. During this period there has been no capital execution. But as the population of this island has much more than doubled during the last fifty years, the annual average of capital convictions during the last seven years ought to have been forty, in order to show the same proportion of criminality with that of the first seven years. Between 1756 and 1763, the military force was comparatively small: a few factories or small ports only depended on this government. Between 1804 and 1811, five hundred European officers, and probably four thousand European soldiers, were scattered over extensive territories. Though honour and morality be powerful aids of law with respect to the first class, and military discipline with respect to the second, yet it might have been expected, as experience has proved, that the more violent enormities would be perpetrated by the European soldiery — uneducated and sometimes depraved as many of them must originally be, — often in a state of mischievous idleness, — commanding, in spite of all care, the means of intoxication, and corrupted by contempt for the feelings and rights of the natives of this country. If these circumstances be considered, it will appear that the capital crimes committed during the last seven years, with no capital execution, have, in proportion to the population, not been much more

than a third of those committed in the first seven years, notwithstanding the infliction of death on forty-seven persons. The intermediate periods lead to the same results. The number of capital crimes in any one of these periods does not appear to be diminished either by the capital executions of the same period, or of that immediately preceding: they bear no assignable proportion to each other.

In the seven years immediately preceding the last, which were chiefly in the presidency of my learned predecessor, Sir William Syer, there was a very remarkable diminution of capital punishments. The average fell from about four in each year, which was that of the seven years before Sir William Syer, to somewhat less than two in each year. Yet the capital convictions were diminished about one-third.

The punishment of death is principally intended to prevent the more violent and atrocious crimes. From May, 1797, there were eighteen convictions for murder, of which I omit two, as of a very particular kind. In that period there were twelve capital executions. From May, 1804, to May, 1811, there were six convictions for murder *, omitting one which was considered by the jury as in substance a case of man-

* . . . . "The truth seems to be, as I observed to you on a former occasion, that the natives of India, though incapable of the crimes which arise from violent passions, are, beyond every other people of the earth, addicted to those vices which proceed from the weakness of natural feeling, and the almost total absence of moral restraint. This observation may, in a great measure, account for that most aggravated species of child-murder which prevails among them. They are not actively cruel; but they are utterly insensible. They have less ferocity, perhaps, than most other nations; but they have still less compassion. Among them, therefore, infancy has lost its natural shield. The paltry temptation of getting possession of the few gold and silver ornaments, with which parents in this country load their infants, seems sufficient to lead these timid and mild beings to destroy a child without pity, without anger, without fear, without remorse, with little apprehension of punishment, and with no apparent shame on detection." — *Charge*, 19th April, 1806. — ED.

slaughter with some aggravation. The murders in the former period were, therefore, very nearly as three to one to those in the latter, in which no capital punishment was inflicted. From the number of convictions, I of course exclude those cases where the prisoner escaped; whether he owed his safety to defective proof of his guilt, or to a legal objection. This cannot affect the justness of a comparative estimate, because the proportion of criminals who escape on legal objections before courts of the same law, must, in any long period, be nearly the same. But if the two cases,—one where a formal verdict of murder, with a recommendation to mercy, was intended to represent an aggravated manslaughter; and the other of a man who escaped by a repugnancy in the indictment, where, however, the facts were more near manslaughter than murder,—be added, then the murders of the last seven years will be eight, while those of the former seven years will be sixteen.

This small experiment has, therefore, been made without any diminution of the security of the lives and properties of men. Two hundred thousand men have been governed for seven years without a capital punishment, and without any increase of crimes. If any experience has been acquired, it has been safely and innocently gained. It was, indeed, impossible that the trial could ever have done harm. It was made on no avowed principle of impunity or even lenity. It was in its nature gradual, subject to cautious reconsideration in every new instance, and easily capable of being altogether changed on the least appearance of danger. Though the general result be rather remarkable, yet the usual maxims which regulate judicial discretion have in a very great majority of cases been pursued. The instances of deviation from those maxims scarcely amount to a twentieth of the whole convictions.

I have no doubt of the right of society to inflict

the punishment of death on enormous crimes, wherever an inferior punishment is not sufficient. I consider it as a mere modification of the right of self-defence, which may as justly be exercised in deterring from attack, as in repelling it. I abstain from the discussions in which benevolent and enlightened men have, on more sober principles, endeavoured to show the wisdom of, at least, confining the punishment of death to the highest class of crimes. I do not even presume in this place to give an opinion regarding the attempt which has been made by one* whom I consider as among the wisest and most virtuous men of the present age, to render the letter of our penal law more conformable to its practice. My only object is to show that no evil has hitherto resulted from the exercise of judicial discretion in this Court. I speak with the less reserve, because the present sessions are likely to afford a test which will determine whether I have been actuated by weakness or by firmness, — by fantastic scruples and irrational feelings, or by a calm and steady view to what appeared to me the highest interests of society.†

I have been induced to make these explanations by the probability of this being the last time of my addressing a grand jury from this place. His Majesty has been graciously pleased to approve of my return to Great Britain, which the state of my health has for some time rendered very desirable. It is therefore probable, though not certain, that I may begin my voyage before the next sessions.

In that case, Gentlemen, I now have the honour to take my leave of you, with those serious thoughts that naturally arise at the close of every great division of human life, — with the most ardent and unmixed

* Sir Samuel Romilly. — Ed.

† Alluding to the impending trial of a native artillery-man for murder, who was eventually executed. — Ed.

wishes for the welfare of the community with which I have been for so many years connected by an honourable tie,—and with thanks to you, Gentlemen, for the assistance which many of you have often afforded me in the discharge of duties, which are necessary, indeed, and sacred, but which, to a single judge, in a recent court, and small society, are peculiarly arduous, invidious, and painful.

SPEECH

ON

THE ANNEXATION OF GENOA

TO THE

KINGDOM OF SARDINIA.*

DELIVERED IN THE HOUSE OF COMMONS ON THE 27TH OF APRIL, 1815.

MR. SPEAKER,

I now rise, pursuant to my notice, to discharge the most arduous, and certainly the most painful, public duty which I have ever felt myself called upon to

* On the general reverses that befell the arms of France in the spring of 1814, and the consequent withdrawal of her troops from Italy, Lord William Bentinck was instructed to occupy the territories of the republic of Genoa, "without committing his Court or the Allies with respect to their ultimate disposition." Of the proclamation which he issued upon the occasion of carrying these orders into effect, dated March 14th, Lord Castlereagh had himself observed, that "an expression or two, taken separately, might create an impression that his views of Italian liberation went to the form of the government, as well as to the expulsion of the French." On the success of the military movement, the General reported that he had, "in consequence of the unanimous desire of the Genoese to return to their ancient state," proclaimed the old form of government. That this desire was unjustly thwarted, and that these expectations, fairly raised by Lord William Bentinck's proclamation, had been wrongfully disappointed by the final territorial settlement of the Allies at Paris, it was the scope of this speech to prove. For the papers referred to, see Hansard's Parliamentary Debates, vol. xxx. p. 387., and for the Resolutions moved, ibid., p. 932. — ED.

perform. I have to bring before the House, probably for its final consideration, the case of Genoa, which, in various forms of proceedings and stages of progress, has already occupied a considerable degree of our attention. All these previous discussions of this great question of faith and justice, have been hitherto of necessity almost confined to one side. When my Honourable Friend * moved for papers on this subject, the reasoning was only on this side of the House. The gentlemen on the opposite side professedly abstained from discussion of the merits of the case, because they alleged that discussion was then premature, and that a disclosure of the documents necessary to form a right judgment, would at that period have been injurious to the public interest. In what that danger consisted, or how such a disclosure would have been more inconvenient on the 22d of February than on the 27th of April, they will doubtless this day explain. I have in vain examined the papers for an explanation of it. It was a serious assertion, made on their Ministerial responsibility, and absolutely requires to be satisfactorily established. After the return of the Noble Lord † from Vienna, the discussion was again confined to one side, by the singular course which he thought fit to adopt. When my Honourable Friend ‡ gave notice of a motion for all papers respecting those arrangements at Vienna, which had been substantially completed, the Noble Lord did not intimate any intention of acceding to the motion. He suffered it to proceed as if it were to be adversely debated, and instead of granting the papers, so that they might be in the possession of every member a sufficient time for careful perusal and attentive consideration, he brought out upon us in the middle of his speech a number of

* Mr. Lambton (afterwards Earl of Durham) had on the 22d of February made a motion for papers connected with the case of Genoa, on which occasion Sir James Mackintosh had supported him. — Ed.

† Viscount Castlereagh. — Ed. ‡ Mr. Whitbread. — Ed.

documents, which had been familiar to him for six months, but of which no private member of the House could have known the existence. It was impossible for us to discuss a great mass of papers, of which we had heard extracts once read in the heat and hurry of debate. For the moment we were silenced by this ingenious stratagem: the House was taken by surprise. They were betrayed into premature applause of that of which it was absolutely impossible that they should be competent judges. It might be thought to imply a very unreasonable distrust in the Noble Lord of his own talents, if it were not much more naturally imputable to his well-grounded doubts of the justice of his cause.

I have felt, Sir, great impatience to bring the question to a final hearing, as soon as every member possessed that full information in which alone I well knew that my strength must consist. The production of the papers has occasioned some delay; but it has been attended also with some advantage to me, which I ought to confess. It has given me an opportunity of hearing in another place a most perspicuous and forcible statement of the defence of Ministers *, — a statement which, without disparagement to the talents of the Noble Lord, I may venture to consider as containing the whole strength of their case. After listening to that able statement, — after much reflection for two months, — after the most anxious examination of the papers before us, I feel myself compelled to adhere to my original opinion, and to bring before the House the forcible transfer of the Genoese territory to the foreign master whom the Genoese people most hate, — a transfer stipulated for by British ministers, and executed by British troops, — as an act by which the pledged faith of this nation has been forfeited, the rules of justice have been violated, the fundamental principles of European policy have been shaken, and

* By Earl Bathurst, in the House of Lords. — Ed.

the odious claims of conquest stretched to an extent unwarranted by a single precedent in the good times of Europe. On the examination of these charges, I entreat gentlemen to enter with a disposition which becomes a solemn and judicial determination of a question which affects the honour of their country, —certainly without forgetting that justice which is due to the King's Ministers, whose character it does most deeply import.

I shall not introduce into this discussion any of the practical questions which have arisen out of recent and terrible events.* They may, like other events in history, supply argument or illustration; but I shall in substance argue the case, as if I were again speaking on the 22d of February, without any other change than a tone probably more subdued than would have been natural during that short moment of secure and almost triumphant tranquillity.

For this transaction, and for our share in all the great measures of the Congress of Vienna, the Noble Lord has told us that he is "pre-eminently responsible." I know not in what foreign school he may have learnt such principles or phrases; but however much his colleagues may have resigned their discretion to him, I trust that Parliament will not suffer him to relieve them from any part of their responsibility. I shall not now inquire on what principle of constitutional law the whole late conduct of Continental negotiations by the Noble Lord could be justified. A Secretary of State has travelled over Europe with the crown and sceptre of Great Britain, exercising the royal prerogatives without the possibility of access to the Crown, to give advice, and to receive commands, and concluding his country by irrevocable acts, without communication with the other responsible advisers of the King. I shall not now examine into the nature of what our ancestors would have termed an "accroach-

* Napoleon's return from Elba. — Ed.

ment" of royal power, — an offence described indeed with dangerous laxity in ancient times, but, as an exercise of supreme power in another mode than by the forms, and under the responsibility prescribed by law, undoubtedly tending to the subversion of the fundamental principles of the British monarchy.

In all the preliminary discussions of this subject, the Noble Lord has naturally laboured to excite prejudice against his opponents. He has made a liberal use of the common-places of every Administration, against every Opposition; and he has assailed us chiefly through my Honourable Friend (Mr. Whitbread) with language more acrimonious and contumelious than is very consistent with his recommendations of decorum and moderation. He speaks of our "foul calumnies;" though calumniators do not call out as we did for inquiry and for trial. He tells us "that our discussions inflame nations more than they correct governments;" — a pleasant antithesis, which I have no doubt contains the opinion entertained of all popular discussion by the sovereigns and ministers of absolute monarchies, under whom he has lately studied constitutional principles. Indeed, Sir, I do not wonder that, on his return to this House, he should have been provoked into some forgetfulness of his usual moderation: — after long familiarity with the smooth and soft manners of diplomatists, it is natural that he should recoil from the turbulent freedom of a popular assembly. But let him remember, that to the uncourtly and fearless turbulence of this House Great Britain owes a greatness and power so much above her natural resources, and that rank among nations which gave him ascendancy and authority in the deliberations of assembled Europe: — "Sic fortis Etruria crevit!" By that plainness and roughness of speech which wounded the nerves of courtiers, this House has forced kings and ministers to respect public liberty at home and to observe public faith abroad. He complains that this should be the first

place where the faith of this country is impugned: — I rejoice that it is. It is because the first approaches towards breach of faith are sure of being attacked here, that there is so little ground for specious attack on our faith in other places. It is the nature and essence of the House of Commons to be jealous and suspicious, even to excess, of the manner in which the conduct of the Executive Government may affect that dearest of national interests — the character of the nation for justice and faith. What is destroyed by the slightest speck of corruption can never be sincerely regarded unless it be watched with jealous vigilance.

In questions of policy, where inconvenience is the worst consequence of error, and where much deference may be reasonably paid to superior information, there is much room for confidence beforehand and for indulgence afterwards; but confidence respecting a point of honour is a disregard of honour. Never, certainly, was there an occasion when these principles became of more urgent application than during the deliberations of the Congress of Vienna. Disposing, as they did, of rights and interests more momentous than were ever before placed at the disposal of a human assembly, is it fit that no channel should be left open by which they may learn the opinion of the public respecting their councils, and the feelings which their measures have excited from Norway to Andalusia? Were these princes and ministers really desirous, in a situation of tremendous responsibility, to bereave themselves of the guidance, and release their judgments from the control, which would arise from some knowledge of the general sentiments of mankind? Were they so infatuated by absolute power as to wish they might never hear the public judgments till their system was unalterably established, and the knowledge could no longer be useful? It seems so. There was only one assembly in Europe from whose free discussions they might have learnt the opinions of in-

dependent men,—only one in which the grievances of men and nations might have been published with any effect. The House of Commons was the only body which represented in some sort the public opinions of Europe; and the discussions which might have conveyed that opinion to the Sovereigns at Vienna, seem, from the language of the Noble Lord, to have been odious and alarming to them. Even in that case we have one consolation:—those who hate advice most, always need it most. If our language was odious, it must in the very same proportion have been necessary; and notwithstanding all the abuse thrown upon it may have been partly effectual. Denial at least proves nothing;—we are very sure that if we had prevented any evil, we should only have been the more abused.

Sir, I do not regret the obloquy with which we have been loaded during the present session:—it is a proof that we are following, though with unequal steps, the great men who have filled the same benches before us. It was their lot to devote themselves to a life of toilsome, thankless, and often unpopular opposition, with no stronger allurement to ambition than a chance of a few months of office in half a century, and with no other inducement to virtue than the faint hope of limiting and mitigating evil,—always certain that the merit would never be acknowledged, and generally obliged to seek for the best proof of their services in the scurrility with which they were reviled. To represent them as partisans of a foreign nation, for whom they demanded justice, was always one of the most effectual modes of exciting a vulgar prejudice against them. When Mr. Burke and Mr. Fox exhorted Great Britain to be wise in relation to America, and just towards Ireland, they were called Americans and Irishmen. But they considered it as the greatest of all human calamities to be unjust;—they thought it worse to inflict than to suffer wrong: and they rightly thought themselves then most really Englishmen,

when they most laboured to dissuade England from tyranny. Afterwards, when Mr. Burke, with equal disinterestedness as I firmly believe, and certainly with sufficient zeal, supported the administration of Mr. Pitt, and the war against the Revolution, he did not restrain the freedom which belonged to his generous character. Speaking of that very alliance on which all his hopes were founded, he spoke of it as I might speak (if I had his power of language) of the Congress at Vienna:—"There can be no tie of honour in a society for pillage." He was perhaps blamed for indecorum; but no one ever made any other conclusion from his language, than that it proved the ardour of his attachment to that cause which he could not endure to see dishonoured.

The Noble Lord has charged us, Sir, with a more than unusual interference in the functions of the monarchy and with the course of foreign negotiations. He has not indeed denied the right of this House to interfere:—he will not venture to deny "that this House is not only an accuser of competence to criminate, but a council of weight and wisdom to advise."* He incautiously, indeed, "said that there was a necessary collision between the powers of this House and the prerogatives of the Crown." It would have been more constitutional to have said that there was a liability to collision, and that the deference of each for the other has produced mutual concession, compromise, and co-operation, instead of collision. It has been, in fact, by the exercise of the great Parliamentary function of counsel, that in the best times of our history the House of Commons has suspended the exercise of its extreme powers. Respect for its opinion has rendered the exertion of its authority needless. It is not true that the interposition of its advice respecting the conduct of negotiations, the conduct of war, or the terms of peace, has been more frequent of late than

* Burke, A Representation to His Majesty, &c. — Ed.

in former times:—the contrary is the truth. From the earliest periods, and during the most glorious reigns in our history, its counsel has been proffered and accepted on the highest questions of peace and war. The interposition was necessarily even more frequent and more rough in these early times,—when the boundaries of its authority were undefined,—when its principal occupation was a struggle to assert and fortify its rights, and when it was sometimes as important to establish the legality of a power by exercise as to exercise it well,—than in these more fortunate periods of defined and acknowledged right, when a mild and indirect intimation of its opinion ought to preclude the necessity of resorting to those awful powers with which it is wisely armed. But though these interpositions of Parliament were more frequent in ancient times,—partly from the necessity of asserting contested rights,—and more rare in recent periods,—partly from the more submissive character of the House,—they are wanting at no time in number enough to establish the grand principle of the constitution, that Parliament is the first council of the King in war as well as in peace. This great principle has been acted on by Parliament in the best times:—it has been reverenced by the Crown in the worst. A short time before the Revolution it marked a struggle for the establishment of liberty:—a short time after the Revolution it proved the secure enjoyment of liberty. The House of Commons did not suffer Charles II. to betray his honour and his country, without constitutional warning to choose a better course*: its first aid to William III. was by counsels relating to war.† When, under the influence of other feelings, the House rather thwarted than aided their great Deliverer, even the party in it most hostile to liberty

* Commons' Addresses, 15th of March, 1627; 29th of March, 1677; 25th of May, 1677; 30th of December, 1680.

† 24th of April, 1689 (advising a declaration of war).

carried the rights of Parliament as a political council to the utmost constitutional limit, when they censured the Treaty of Partition as having been passed under the Great Seal during the session of Parliament, and "without the advice of the same."* During the War of the Succession, both Houses repeatedly counselled the Crown on the conduct of the war†,—on negotiation with our allies,—and even on the terms of peace with the enemy. But what needs any further enumerations? Did not the vote of this House put an end to the American War?

Even, Sir, if the right of Parliament to advise had not been as clearly established as the prerogative of the Crown to make war or peace, — if it had not been thus constantly exercised, — if the wisest and best men had not been the first to call it forth into action, we might reasonably have been more forward than our ancestors to exercise this great right, because we contemplate a system of political negotiation, such as our ancestors never saw. All former Congresses were assemblies of the ministers of belligerent Powers to terminate their differences by treaty, — to define the rights and decide on the pretensions which had given rise to war, or to make compensation for the injuries which had been suffered in the course of it. The firm and secure system of Europe admitted no rapid, and few great changes of power and possession. A few fortresses in Flanders, a province on the frontiers of France and Germany, were generally the utmost cessions earned by the most victorious wars, and recovered by the most important treaties. Those who have lately compared the transactions at Vienna with the treaty of Westphalia, — which formed the code of the Empire, and an era in diplomatic history, — which terminated the civil wars of religion, not only in

* 21st of March, 1701.

† 27th of November, 1705; 22d of December, 1707; 3d of March, 1709; 18th of February, 1710.

Germany, but throughout Christendom, — and which removed all that danger with which, for more than a century, the power of the House of Austria had threatened the liberties of Europe, — will perhaps feel some surprise when they are reminded that, except secularising a few Ecclesiastical principalities, that renowned and memorable treaty ceded only Alsace to France and part of Pomerania to Sweden, — that its stipulations did not change the political condition of half a million of men, — that it affected no pretension to dispose of any territory but that of those who were parties to it, — and that not an acre of land was ceded without the express and formal consent of its legal sovereign.* Far other were the pretensions, and indeed the performances, of the ministers assembled in congress at Vienna. They met under the modest pretence of carrying into effect the thirty-second article of the Treaty of Paris†: but under colour of this humble language, they arrogated the power of doing that in comparison with which the whole Treaty of Paris was a trivial convention, and which made the Treaty of Westphalia appear no more than an adjustment of parish boundaries. They claimed the absolute disposal of every territory which had been occupied by France and her vassals, from Flanders to Livonia, and from the Baltic to the Po. Over these, the finest countries in the world, inhabited by twelve millions of mankind, — under pretence of delivering whom from a conqueror they had taken up arms, — they arrogated to themselves the harshest rights of conquest.

* This is certainly true respecting Pomerania and Alsace: whether the Ecclesiastical principalities were treated with so much ceremony may be more doubtful, and it would require more research to ascertain it than can now be applied to the object.

† "All the Powers engaged on either side in the present war, shall, within the space of two months, send plenipotentiaries to Vienna for the purpose of regulating in general congress the arrangements which are to complete the provisions of the present treaty."

It is true that of this vast territory they restored, or rather granted, a great part to its ancient sovereigns. But these sovereigns were always reminded by some new title, or by the disposal of some similarly circumstanced neighbouring territory, that they owed their restoration to the generosity, or at most to the prudence of the Congress, and that they were not entitled to require it from its justice. They came in by a new tenure: — they were the feudatories of the new corporation of kings erected at Vienna, exercising joint power in effect over all Europe, consisting in form of eight or ten princes, but in substance of three great military Powers, — the spoilers of Poland, the original invaders of the European constitution, — sanctioned by the support of England, and checked, however feebly, by France alone. On these three Powers, whose reverence for national independence and title to public confidence were so firmly established by the partition of Poland, the dictatorship of Europe has fallen. They agree that Germany shall have a federal constitution, — that Switzerland shall govern herself, — that unhappy Italy shall, as they say, be composed of Sovereign States: — but it is all by grant from these lords paramount. Their will is the sole title to dominion, — the universal tenure of sovereignty. A single acre granted on such a principle is, in truth, the signal of a monstrous revolution in the system of Europe. Is the House of Commons to remain silent, when such a principle is applied in practice to a large part of the Continent, and proclaimed in right over the whole? Is it to remain silent when it has heard the King of Sardinia, at the moment when he received possession of Genoa from a British garrison, and when the British commander stated himself to have made the transfer in consequence of the decision at Vienna, proclaim to the Genoese, that he took possession of their territory "in concurrence with the wishes of the principal Powers of Europe?"

It is to this particular act of the Congress, Sir, that I now desire to call the attention of the House, not only on account of its own atrocity, but because it seems to represent in miniature the whole system of that body, — to be a perfect specimen of their new public law, and to exemplify every principle of that code of partition which they are about to establish on the ruins of that ancient system of national independence and balanced power, which gradually raised the nations of Europe to the first rank of the human race. I contend that all the parties to this violent transfer, and more especially the British government, have been guilty of perfidy, — have been guilty of injustice; and I shall also contend, that the danger of these violations of faith and justice is much increased, when they are considered as examples of those principles by which the Congress of Vienna arrogate to themselves the right of regulating a considerable portion of Europe.

To establish the breach of faith, I must first ask, — What did Lord William Bentinck promise, as commander-in-chief of His Majesty's troops in Italy, by his Proclamations of the 14th of March and 26th of April, 1814? The first is addressed to the people of Italy. It offers them the assistance of Great Britain to rescue them from the iron yoke of Buonaparte. It holds out the example of Spain, enabled, by the aid of Great Britain, to rescue "her independence," — of the neighbouring Sicily, "which hastens to resume her ancient splendour among independent nations. . . Holland is about to obtain the same object. . . Warriors of Italy, you are invited to vindicate your own rights, and to be free! Italy, by our united efforts, shall become what she was in her most prosperous periods, and what Spain now is!"

Now, Sir, I do contend that all the powers of human ingenuity cannot give two senses to this Proclamation: I defy the wit of man to explain it away. Whether Lord William Bentinck had the power to

promise is an after question:—what he did promise, can be no question at all. He promised the aid of England to obtain Italian independence. He promised to assist the Italians in throwing off a yoke,—in escaping from thraldom,—in establishing liberty,—in asserting rights,—in obtaining independence. Every term of emancipation known in human language is exhausted to impress his purpose on the heart of Italy. I do not now inquire whether the generous warmth of this language may not require in justice some understood limitation:—perhaps it may. But can independence mean a transfer to the yoke of the most hated of foreign masters? Were the Genoese invited to spill their blood, not merely for a choice of tyrants, but to earn the right of wearing the chains of the rival and the enemy of two centuries? Are the references to Spain, to Sicily, and to Holland mere frauds on the Italians,—"words full of sound and fury, signifying nothing?" If not, can they mean less than this,—that those countries of Italy which were independent before the war, shall be independent again? These words, therefore, were at least addressed to the Genoese;—suppose them to be limited, as to any other Italians;—suppose the Lombards, or, at that time, the Neapolitans, to be tacitly excluded. Addressed to the Genoese, they either had no meaning, or they meant their ancient independence.

Did the Genoese act upon these promises? What did they do in consequence of that first Proclamation of the 14th of March, from Leghorn, addressed to all the Italians, but applicable at least to the Genoese, and necessarily understood by that people as comprehending them? I admit that the promises were conditional; and to render them conclusive, it was necessary for the Genoese to fulfil the condition:—I contend that they did. I shall not attempt again to describe the march of Lord William Bentinck from Leghorn to Genoa, which has already been painted by my Honour-

able and Learned Friend * with all the chaste beauties of his moral and philosophical eloquence: my duty confines me to the dry discussion of mere facts. The force with which Lord William Bentinck left Leghorn consisted of about three thousand English, supported by a motley band of perhaps five thousand Sicilians, Italians, and Greeks, the greater part of whom had scarcely ever seen a shot fired. At the head of this force, he undertook a long march through one of the most defensible countries of Europe, against a city garrisoned or defended by seven thousand French veterans, and which it would have required twenty-five thousand men to invest, according to the common rules of military prudence. Now, Sir, I assert, without fear of contradiction, that such an expedition would have been an act of phrenzy, unless Lord William Bentinck had the fullest assurance of the good-will and active aid of the Genoese people. The fact sufficiently speaks for itself. I cannot here name the high military authority on which my assertion rests; but I defy the Right Honourable Gentlemen, with all their means of commanding military information, to contradict me. I know they will not venture. In the first place, then, I assume, that the British general would not have begun his advance without assurance of the friendship of the Genoese, and that he owes his secure and unmolested march to the influence of the same friendship — supplying his army, and deterring his enemies from attack. He therefore, in truth, owed his being before the walls of Genoa to Genoese co-operation. The city of Genoa, which, in 1799, had been defended by Massena for three months, fell to Lord William Bentinck in two days. In two days seven thousand French veterans laid down their arms to three thousand British soldiers, encumbered rather than aided by the auxiliary rabble whom I have described. Does any man in his senses believe, that the French gar-

* Mr. Horner. — Ed.

rison could have been driven to such a surrender by any cause but their fear of the Genoese people? I have inquired, from the best military authorities accessible to me, what would be the smallest force with which the expedition might probably have been successful, if the population had been — I do not say enthusiastically, — but commonly hostile to the invaders: — I have been assured, that it could not have been less than twenty-five thousand men. Here, again, I venture to challenge contradiction. If none can be given, must I not conclude that the known friendship of the Genoese towards the British, manifested after the issue of the Proclamation, and in no part created by it, was equivalent to an auxiliary force of seventeen thousand men? Were not the known wishes of the people, acting on the hopes of the British, and on the fears of the French, the chief cause of the expulsion of the French from the Genoese territory? Can Lord William Bentinck's little army be considered as more than auxiliaries to the popular sentiment? If a body of four thousand Genoese had joined Lord William, on the declared ground of his Proclamation, all mankind would have exclaimed that the condition was fulfilled, and the contract indissoluble. Is it not the height of absurdity to maintain that a manifestation of public sentiment, which produced as much benefit to him as four times that force, is not to have the same effect. A ship which is in sight of a capture is entitled to her share of the prize, though she neither had nor could have fired a shot, upon the plain principle that apprehension of her approach probably contributed to produce the surrender. If apprehension of Genoese hostility influenced the French garrison, — if assurance of Genoese friendship encouraged the British army, on what principle do you defraud the Genoese of their national independence, — the prize which you promised them, and which they thus helped to wrest from the enemy?

In fact, I am well informed, Sir, that there was a

revolt in the city, which produced the surrender,—that Buonaparte's statue had been overthrown with every mark of indignity,—and that the French garrison was on the point of being expelled, even if the besiegers had not appeared. But I am not obliged to risk the case upon the accuracy of that information. Be it that the Genoese complied with Lord Wellesley's wise instruction, to avoid premature revolt: I affirm that Lord William Bentinck's advance is positive evidence of an understanding with the Genoese leaders; that there would have been such evidence in the advance of any judicious officer, but most peculiarly in his, who had been for three years negotiating in Upper Italy, and was well acquainted with the prevalent impatience of the French yoke. I conceive it to be self-evident, that if the Genoese had believed the English army to be advancing in order to sell them to Sardinia, they would not have favoured the advance. I think it demonstrable, that to their favourable disposition the expedition owed its success. And it needs no proof that they favoured the English, because the English promised them the restoration of independence. The English have, therefore, broken faith with them: the English have defrauded them of solemnly-promised independence: the English have requited their co-operation, by forcibly subjecting them to the power of the most odious of foreign masters. On the whole, I shall close this part of the question with challenging all the powers of human ingenuity to interpret the Proclamation as any thing but a promise of independence to such Italian nations as were formerly independent, and would now co-operate for the recovery of their rights. I leave to the Gentlemen on the other side the task of convincing the House that the conduct of the Genoese did not co-operate towards success, though without it success was impossible.

But we have been told that Lord William Bentinck was not authorised to make such a promise. It is

needless for me to repeat my assent to a truth so trivial, as that no political negotiation is naturally within the province of a military commander, and that for such negotiations he must have special authority. At the same time I must observe, that Lord William Bentinck was not solely a military commander, and could not be considered by the Italians in that light. In Sicily his political functions had been more important than his military command. From 1811 to 1814 he had, with the approbation of his Government, performed the highest acts of political authority in that island; and he had, during the same period, carried on the secret negotiations of the British Government with all Italians disaffected to France. To the Italians, then, he appeared as a plenipotentiary; and they had a right to expect that his Government would ratify his acts and fulfil his engagements. In fact, his special authority was full and explicit. Lord Wellesley's Instructions of the 21st of October and 27th of December, 1811, speak with the manly firmness which distinguishes that great statesman as much as his commanding character and splendid talents. His meaning is always precisely expressed:—he leaves himself no retreat from his engagements in the ambiguity and perplexity of an unintelligible style. The principal object of these masterly despatches is to instruct Lord William Bentinck respecting his support of any eventual effort of the Italian states to rescue Italy. They remind him of the desire of the Prince Regent to afford every practicable assistance to the people of Italy in any such effort. They convey so large a discretion, that it is thought necessary to say,—"In all arrangements respecting the expulsion of the enemy, your Lordship will not fail to give due consideration to our engagements with the courts of Sicily and Sardinia." Lord William Bentinck had therefore powers which would have extended to Naples and Piedmont, unless

they had been specially excepted. On the 19th of May, 1812, Lord Castlereagh virtually confirms the same extensive and confidential powers. On the 4th of March preceding, Lord Liverpool had, indeed, instructed Lord William Bentinck to employ a part of his force in a diversion in favour of Lord Wellington, by a descent on the eastern coast of Spain. This diversion doubtless suspended the negotiations with the patriotic Italians, and precluded for a time the possibility of affording them aid. But so far from withdrawing Lord William Bentinck's political power, in Italy, they expressly contemplate their revival:— "This operation would leave the question respecting Italy open for further consideration, if circumstances should subsequently render the prospect there more inviting." The despatches of Lord Bathurst, from March 1812 to December 1813, treat Lord William Bentinck as still in possession of those extensive powers originally vested in him by the despatch of Lord Wellesley. Every question of policy is discussed in these despatches, not as with a mere general,—not even as with a mere ambassador, but as with a confidential minister for the *Italian Department.* The last despatch is that which closes with the remarkable sentence, which is, in my opinion, decisive of this whole question:—"Provided it be clearly with the entire concurrence of the inhabitants, you may take possession of Genoa in the name of His Sardinian Majesty." Now this is, in effect, tantamount to an instruction not to transfer Genoa to Sardinia without the concurrence of the inhabitants. It is a virtual instruction to consider the wishes of the people of Genoa as the rule and measure of his conduct: it is more—it is a declaration that he had no need of any instruction to re-establish Genoa, if the Genoese desired it. That re-establishment was provided for by his original instructions: only the new project of a transfer to a foreign sovereign required new ones. Under his original instructions, then, thus ratified

by a long series of succeeding despatches from a succession of ministers, did Lord William Bentinck issue the Proclamation of the 14th of March.

Limitations there were in the original instructions: — Sicily and Sardinia were excepted. New exceptions undoubtedly arose, in the course of events, so plainly within the principle of the original exceptions as to require no specification. Every Italian province of a sovereign with whom Great Britain had subsequently contracted an alliance was, doubtless, as much to be excepted out of general projects of revolt for Italian independence as those which had been subject to the Allied Sovereigns in 1811. A British minister needed no express instructions to comprehend that he was to aid no revolt against the Austrian Government in their former province of Lombardy. The change of circumstances sufficiently instructed him. But in what respect were circumstances changed respecting Genoa? The circumstances of Genoa were the same as at the time of Lord Wellesley's instructions. The very last despatches (those of Lord Bathurst, of the 28th of December, 1813) had pointed to the Genoese territory as the scene of military operations, without any intimation that the original project was not still applicable there, unless the Genoese nation should agree to submit to the King of Sardinia. I contend, therefore, that the original instruction of Lord Wellesley, which authorised the promise of independence to every part of the Italian peninsula except Naples and Piedmont, was still in force, wherever it was not manifestly limited by subsequent engagements with the sovereigns of other countries, similar to our engagements with the sovereigns of Naples and Piedmont, — that no such engagement existed respecting the Genoese authority, — and that to the Genoese people the instruction of Lord Wellesley was as applicable as on the day when that instruction was issued.

The Noble Lord may then talk as he pleases of

"disentangling from the present question the question of Italy," to which on a former occasion he applied a phraseology so singular. He cannot "disentangle these questions:" — they are inseparably blended. The Instructions of 1811 authorised the promise of independence to all Italians, except the people of Naples and Piedmont. The Proclamation of the 14th of March, 1814, promised independence to all Italians, with the manifestly implied exception of those who had been the subjects of Powers who were now become the allies of Great Britain. A British general, fully authorised, promised independence to those Italians who, like the Genoese, had not been previously the subjects of an ally of Britain, and by that promise, so authorised, his Government is inviolably bound.

But these direct instructions were not all. He was indirectly authorised by the acts and language of his own Government and of the other great Powers of Europe. He was authorised to re-establish the republic of Genoa, because the British Government in the treaty of Amiens had refused to acknowledge its destruction. He was authorised to believe that Austria desired the re-establishment of a republic whose destruction that Government in 1808 had represented as a cause of war. He was surely authorised to consider that re-establishment as conformable to the sentiments of the Emperor Alexander, who at the same time had, on account of the annexation of Genoa to France, refused even at the request of Great Britain to continue his mediation between her and a Power capable of such an outrage on the rights of independent nations. Where was Lord William Bentinck to learn the latest opinions of the Allied Powers? If he read the celebrated Declaration of Frankfort, he there found an alliance announced of which the object was the restoration of Europe. Did restoration mean destruction? Perhaps before the 14th of March, — certainly before the 26th of April, — he had seen the

first article of the Treaty of Chaumont, concluded on the 1st of March, —

" Dum curæ ambiguæ, dum spes incerta futuri,"* —

in which he found the object of the war declared by the assembled majesty of confederated Europe to be "a general peace under which the rights and liberties of all nations may be secured" — words eternally honourable to their authors if they were to be observed — more memorable still if they were to be openly and perpetually violated! Before the 26th of April he had certainly perused these words, which no time will efface from the records of history; for he evidently adverts to them in the preamble of his Proclamation, and justly considers them as a sufficient authority, if he had no other, to warrant its provisions. "Considering," says he, "that the general desire of the Genoese nation seems to be, to return to their ancient government, and considering that the desire seems to be conformable to the principles recognised by the High Allied Powers of restoring to all their ancient rights and privileges." In the work of my celebrated friend, Mr. Gentz, of whom I can never speak without regard and admiration, On the Balance of Power, he would have found the incorporation of Genoa justly reprobated as one of the most unprincipled acts of French tyranny; and he would have most reasonably believed the sentiments of the Allied Powers to have been spoken by that eminent person — now, if I am not misinformed, the Secretary of that Congress, on whose measures his writings are the most severe censure.

But that Lord William Bentinck did believe himself to have offered independence to the Genoese, — that he thought himself directly and indirectly authorised to make such an offer, — and that he was satisfied that the Genoese had by their co-operation performed

* Æneid. lib. viii. — Ed.

their part of the compact, are facts which rest upon the positive and precise testimony of Lord William Bentinck himself. I call upon him as the best interpreter of his own language, and the most unexceptionable witness to prove the co-operation of the Genoese. Let his Proclamation of the 26th of April be examined: — it is the clearest commentary on that of the 14th of March. It is the most decisive testimony to the active aid of the Genoese people. On the 26th of April he bestows on the people of Genoa that independence which he had promised to all the nations of Italy (with the implied exception, already often enough mentioned), on condition of their aiding to expel the oppressor. He, therefore, understood his own Proclamation to be such a promise of independence: he could not doubt but that he was authorised to make it: and he believed that the Genoese were entitled to claim the benefit of it by their performance of its condition.

This brings me to the consideration of this Proclamation, on which I should have thought all observation unnecessary, unless I had heard some attempts made by the Noble Lord to explain it away, and to represent it as nothing but the establishment of a provisional government. I call on any member of the House to read that Proclamation, and to say whether he can in common honour assent to such an interpretation. The Proclamation, beyond all doubt, provides for two perfectly distinct objects: — the establishment of a provisional government till the 1st of January, 1815, and the re-establishment of the ancient constitution of the republic, with certain reforms and modifications, from and after that period. Three-fourths of the Proclamation have no reference whatever to a provisional government; — the first sentence of the preamble, and the third and fourth articles only, refer to that object: but the larger paragraph of the preamble, and four articles of the enacting part, relate to the re-establishment of the ancient constitution

alone. "The desire of the Genoese nation was to return to their ancient government, under which they had enjoyed independence:" — was this relating to a provisional government? Did "the principles recognised by the High Allied Powers" contemplate only the establishment of provisional governments? Did provisional governments imply "restoring to all their ancient rights and privileges?" Why should the ancient constitution be re-established — the very constitution given by Andrew Doria when he delivered his country from a foreign yoke, — if nothing was meant but a provisional government, preparatory to foreign slavery? Why was the government to be modified according to the general wish, the public good, and the spirit of Doria's constitution, if nothing was meant beyond a temporary administration, till the Allied Powers could decide on what vassal they were to bestow Genoa? But I may have been at first mistaken, and time may have rendered my mistake incorrigible. Let every gentleman, before he votes on this question, calmly peruse the Proclamation of the 26th of April, and determine for himself whether it admits of any but one construction. Does it not provide for a provisional government immediately, and for the establishment of the ancient constitution hereafter: — the provisional government till the 1st of January, 1815, the constitution from the 1st of January, 1815? The provisional government is in its nature temporary, and a limit is fixed to it. The constitution of the republic is permanent, and no term or limit is prescribed beyond which it is not to endure. It is not the object of the Proclamation to establish the ancient constitution as a provisional government. On the contrary, the ancient constitution is not to be established till the provisional government ceases to exist. So distinct are they, that the mode of appointment to the supreme powers most materially differs. Lord William Bentinck nominates the two colleges, who compose the provisional government. The two

colleges who are afterwards to compose the permanent government of the republic, are to be nominated agreeably to the ancient constitution. Can it be maintained that the intention was to establish two successive provisional governments? For what conceivable reason? Even in that case, why engage in the laborious and arduous task of reforming an ancient constitution for the sake of a second provisional government which might not less three weeks? And what constitution was more unfit for a provisional government, — what was more likely to indispose the people to all farther change, and, above all, to a sacrifice of their independence, than the ancient constitution of the republic, which revived all their feelings of national dignity, and seemed to be a pledge that they were once more to be Genoese? In short, Sir, I am rather fearful that I shall be thought to have overlaboured a point so extremely clear. But if I have dwelt too long upon this Proclamation, and examined it too minutely, it is not because I think it difficult, but because I consider it is decisive of the whole question. If Lord William Bentinck in that Proclamation bestowed on the people of Genoa their place among nations, and the government of their forefathers, it must have been because he deemed himself authorised to make that establishment by the repeated instructions of the British Government, and by the avowed principles and solemn acts of the Allied Powers, and because he felt bound to make it by his own Proclamation of the 14th of March, combined with the acts done by the Genoese nation, in consequence of that Proclamation. I think I have proved that he did so, — that he believed himself to have done so, and that the people of Genoa believed it likewise.

Perhaps, however, if Lord William Bentinck had mistaken his instructions, and had acted without authority, he might have been disavowed, and his acts might have been annulled? I doubt whether, in

such a case, any disavowal would have been sufficient. Wherever another people, in consequence of the acts of our agent whom they had good reason to trust, have done acts which they cannot recall, I do not conceive the possibility of a just disavowal of such an agent's acts. Where one party has innocently and reasonably advanced too far to recede, justice cuts off the other also from retreat. But, at all events, the disavowal, to be effectual, must have been prompt, clear, and public. Where is the disavowal here? Where is the public notice to the Genoese, that they were deceived? Did their mistake deserve no correction, even on the ground of compassion? I look in vain through these Papers for any such act. The Noble Lord's letter of the 30th of March was the first intimation which Lord William Bentinck received of any change of system beyond Lombardy. It contains only a caution as to future conduct; and it does not hint an intention to cancel any act done on the faith of the Proclamation of the 14th of March. The allusion to the same subject in the letter of the 3d of April, is liable to the very same observation, and being inserted at the instance of the Duke of Campochiaro, was evidently intended only to prevent the prevalence of such ideas of Italian liberty as were inconsistent with the accession then proposed to the territory of Naples. It certainly could not have been supposed by Lord William Bentinck to apply to Genoa; for Genoa was in his possession on the 26th, when he issued the Proclamation, which he never could have published if he had understood the despatch in that sense.

The Noble Lord's despatch of the 6th of May is, Sir, in my opinion, fatal to his argument. It evidently betrays a feeling that acts had been done, to create in the Genoese a hope of independence: yet it does not direct these acts to be disavowed; — it contains no order speedily to undeceive the people. It implies that a deception had been practised; and instead

of an attempt to repair it, there is only an injunction not to repeat the fault. No expressions are to be used which may prejudge the fate of Genoa. Even then that fate remained doubtful. So far from disavowal, the Noble Lord proposes the re-establishment of Genoa, though with some curtailment of territory, to M. Pareto, who maintained the interests of his country with an ability and dignity worthy of happier success.

And the Treaty of Paris itself, far from a disavowal, is, on every principle of rational construction, a ratification and adoption of the act of Lord William Bentinck. The 6th article of that Treaty provides that "Italy, beyond the limits of the country which is to revert to Austria, shall be composed of sovereign states." Now, Sir, I desire to know the meaning of this provision. I can conceive only three possible constructions. Either that every country shall have some sovereign, or, in other words, some government: —it will not be said that so trivial a proposition required a solemn stipulation. Or that there is to be more than one sovereign:—that was absolutely unnecessary: Naples, the States of the Church, and Tuscany, already existed. Or, thirdly, that the ancient sovereign states shall be re-established, except the country which reverts to Austria:—this, and this only, was an intelligible and important object of stipulation. It is the most reasonable of the only three possible constructions of these words. The phrase "sovereign states" seems to have been preferred to that of "sovereigns," because it comprehended republics as well as monarchies. According to this article, thus understood, the Powers of Europe had by the Treaty of Paris (to speak cautiously) given new hopes to the Genoese that they were again to be a nation.

But, according to every principle of justice, it is unnecessary to carry the argument so far. The act of an agent, if not disavowed in reasonable time,

becomes the act of the principal. When a pledge is made to a people — such as was contained in the Proclamations of the 14th of March and 26th of April —it can be recalled only by a disavowal equally public.

On the policy of annexing Genoa to Piedmont, Sir, I have very little to say. That it was a compulsory, and therefore an unjust union, is, in my view of the subject, the circumstance which renders it most impolitic. It seems a bad means of securing Italy against France, to render a considerable part of the garrison of the Alps so dissatisfied with their condition, that they must consider every invader as a deliverer. But even if the annexation had been just, I should have doubted whether it was desirable. In former times, the House of Savoy might have been the guardians of the Alps:—at present to treat them as such, seems to be putting the keys of Italy into hands too weak to hold them. Formerly, the conquest of Genoa and Piedmont were two distinct operations:— Genoa did not necessarily follow the fate of Turin. In the state of things created by the Congress, a French army has no need of separately acting against the Genoese territory:— it must fall with Piedmont. And, what is still more strange, it is bound to the destinies of Piedmont by the same Congress which has wantonly stripped Piedmont of its natural defences. The House of Sardinia is stripped of great part of its ancient patrimony:—a part of Savoy is, for no conceivable reason, given to France. The French are put in possession of the approaches and outposts of the passes of Mont Cenis: they are brought a campaign nearer to Italy. At this very moment they have assembled an army at Chambery, which, unless Savoy had been wantonly thrown to them, they must have assembled at Lyons. You impose on the House of Savoy the defence of a longer line of Alps with one hand, and you weaken the defence of that part of the line which covers their capital

with the other. But it is perfectly sufficient for me, in the present case, if the policy is only doubtful, or the interests only slight. The laxest moralists will not, publicly at least, deny, that more advantage is lost by the loss of a character for good faith than can be gained by a small improvement in the distribution of territory. Perhaps, indeed, this annexation of Genoa is the only instance recorded in history of great Powers having (to say no more) brought their faith and honour into question without any of the higher temptations of ambition, — with no better inducement than a doubtful advantage in distributing territory more conveniently, — unless, indeed, it can be supposed that they are allured by the pleasures of a triumph over the ancient principles of justice, and of a parade of the new maxims of convenience which are to regulate Europe in their stead.

I have hitherto argued this case as if the immorality of the annexation had arisen solely from the pledge made to the Genoese nation. I have argued it as if the Proclamation of Lord William Bentinck had been addressed to a French province, on which there could be no obligation to confer independence, if there were no promise to do so. For the sake of distinctness, I have hitherto kept out of view that important circumstance, which would, as I contend, without any promise, have of itself rendered a compulsory annexation unjust. Anterior to all promise, independent of all pledged faith, I conceive that Great Britain could not morally treat the Genoese territory as a mere conquest, which she might hold as a province, or cede to another power, at her pleasure. In the year 1797, when Genoa was conquered by France (then at war with England), under pretence of being revolutionised, the Genoese republic was at peace with Great Britain; and consequently, in the language of the law of nations, they were "friendly states." Neither the substantial conquest in 1797, nor the formal union of 1805, had ever been recognised by

this kingdom. When the British commander, therefore, entered the Genoese territory in 1814, he entered the territory of a friend in the possession of an enemy. Supposing him, by his own unaided force, to have conquered it from the enemy, can it be inferred that he conquered it from the Genoese people? He had rights of conquest against the French:—but what right of conquest would accrue from their expulsion, against the Genoese? How could we be at war with the Genoese?—not as with the ancient republic of Genoa, which fell when in a state of amity with us,—not as subjects of France, because we had never legally and formally acknowledged their subjection to that Power. There could be no right of conquest against them, because there was neither the state of war, nor the right of war. Perhaps the Powers of the Continent, which had either expressly or tacitly recognised the annexation of Genoa in their treaties with France, might consistently treat the Genoese people as mere French subjects, and consequently the Genoese territory as a French province, conquered from the French government, which as regarded them had become the sovereign of Genoa. But England stood in no such position:—in her eye the republic of Genoa still of right subsisted. She had done no act which implied the legal destruction of a commonwealth, with which she had had no war, nor cause of war. Genoa ought to have been regarded by England as a friendly state, oppressed for a time by the common enemy, and entitled to reassume the exercise of her sovereign rights as soon as that enemy was driven from her territory by a friendly force. Voluntary, much more cheerful, union,—zealous co-operation,—even long submission,—might have altered the state of belligerent rights:—none of these are here pretended. In such a case, I contend, that, according to the law of nations, anterior to all promises, and independent of all pledged faith, the republic of Genoa was restored to the exercise of

her sovereignty, which, in our eyes, she had never lost, by the expulsion of the French from her soil.

These, Sir, are no reasonings of mine: I read them in the most accredited works on public law, delivered long before any events of our time were in contemplation, and yet as applicable to this transaction, as if they had been contrived for it. Vattel, in the thirteenth and fourteenth chapters of his third book, has stated fully and clearly those principles respecting the application of the *jus postliminii* to the case of states, which he had taken from his eminent predecessors, or rather which they and he had discovered to be agreeable to the plainest dictates of reason, and which they have transcribed from the usage of civilised nations. I shall not trouble the House with the passages*,

* "When a nation, a people, a state, has been entirely subjugated, whether a revolution can give it the right of Postliminium? To which we answer, that if the conquered state has not assented to the new subjection, if it did not yield voluntarily, if it only ceased to resist from inability, if the conqueror has not yet sheathed the sword to wield the sceptre of a pacific sovereign, — such a state is only conquered and oppressed, and when the arms of an ally deliver it, returns without doubt to its first state. Its ally cannot become its conqueror: he is a deliverer, who can have a right only to compensation for his services." . . . . "If the last conqueror, not being an ally of the state, claims a right to retain it under his authority as the prize of victory, he puts himself in the place of the conqueror, and becomes the enemy of the oppressed state. That state may legitimately resist him, and avail herself of a favourable occasion to recover her liberty. A state unjustly oppressed ought to be re-established in her rights by the conqueror who delivers her from the oppressor." Whoever carefully considers the above passage will observe, that it is intended to be applicable to two very distinct cases; — that of deliverance by an ally, where the duty of restoration is strict and precise, — and that of deliverance by a state unallied, but not hostile, where in the opinion of the writer the re-establishment of the oppressed nation is at least the moral duty of the conqueror, though arising only from our common humanity, and from the amicable relation which subsists between all men and all communities, till dissolved by wrongful oppression. It is to the latter case that the strong language in the second part of the above quotation is applied. It seems very difficult, and it has not hitherto been attempted, to resist the application to the case of Genoa.

unless I see some attempt to reconcile them with the annexation of Genoa. I venture to predict no such attempts will be hazarded. It is not my disposition to overrate the authority of this class of writers, or to consider authority in any case as a substitute for reason. But these eminent writers were at least necessarily impartial. Their weight, as bearing testimony to general sentiment and civilised usage, receives a new accession from every statesman who appeals to their writings, and from every year in which no contrary practice is established or hostile principles avowed. Their works are thus attested by successive generations to be records of the customs of the best times, and depositories of the deliberate and permanent judgments of the more enlightened part of mankind. Add to this, that their authority is usually invoked by the feeble, and despised by those who are strong enough to need no aid from moral sentiment, and to bid defiance to justice. I have never heard their principles questioned, but by those whose flagitious policy they had by anticipation condemned.

Here, Sir, let me for a moment lower the claims of my argument, and abandon some part of the ground which I think it practicable to maintain. If I were to admit that the pledge here is not so strong, nor the duty of re-establishing a rescued friend so imperious as I have represented, still it must be admitted to me, that it was a promise, though perhaps not unequivocal, to perform that which was moral and right, whether within the sphere of strict duty or not. Either the doubtful promise, or the imperfect duty, might singly have been insufficient; but, combined, they reciprocally strengthen each other. The slightest promise to do what was before a duty, becomes as binding as much stronger words to do an indifferent act:—strong assurances that a man will do what it is right for him to do are not required. A slight declaration to such an effect is believed by those to whom it is addressed, and therefore obligatory on those by whom it is

uttered. Was it not natural and reasonable for the people of Genoa to believe, on the slenderest pledges, that such a country as England, with which they had never had a difference, would avail herself of a victory, due at least in part to their friendly sentiments, in order to restore them to that independence of which they had been robbed by her enemy and theirs,—by the general oppressor of Europe.

I shall not presume to define on invariable principles the limits of the right of conquest. It is founded, like every right of war, on a regard to security,—the object of all just war. The modes in which national safety may be provided for,—by reparation for insult, —by compensation for injury,—by cessions and by indemnifications,—vary in such important respects, according to the circumstances of various cases, that it is perhaps impossible to limit them by an universal principle. In the case of Norway*, I did not pretend to argue the question upon grounds so high as those which were taken by some writers on public law. These writers, who for two centuries have been quoted as authorities in all the controversies of Europe, with the moderate and pacific Grotius at their head, have all concurred in treating it as a fundamental principle, that a defeated sovereign may indeed cede part of his dominions to the conqueror, but that he thereby only abdicates his own sovereignty over the ceded dominion,—that the consent of the people is necessary to make them morally subject to the authority of the conqueror. Without renouncing this limitation of the rights of conquest, founded on principles so generous, and so agreeable to the dignity of human nature, I was content to argue the cession of Norway,—as I am content to argue the cession of Genoa,—on lower and humbler, but perhaps safer grounds. Let me waive the odious term "rights,"—let me waive the

* On Mr. Charles Wynn's motion (May 12th, 1814) condemnatory of its forced annexation to Sweden.—Ed.

necessity of any consent of a people, express or implied, to legitimate the cession of their territory: at least this will not be denied,—that to unite a people by force to a nation against whom they entertain a strong antipathy, is the most probable means of rendering the community unhappy,—of making the people discontented, and the sovereign tyrannical. But there can be no right in any governor, whether he derives his power from conquest, or from any other source, to make the governed unhappy:—all the rights of all governors exist only to make the governed happy. It may be disputed among some, whether the rights of government be *from* the people; but no man can doubt that they are *for* the people. Such a forcible union is an immoral and cruel exercise of the conqueror's power; and as soon as that concession is made, it is not worth while to discuss whether it be within his right,—in other words, whether he be forbidden by any law to make it.

But if every cession of a territory against the deliberate and manifest sense of its inhabitants be a harsh and reprehensible abuse of conquest, it is most of all culpable,—it becomes altogether atrocious and inhuman, where the antipathy was not the feeling of the moment, or the prejudice of the day, but a profound sentiment of hereditary repugnance and aversion, which has descended from generation to generation,—has mingled with every part of thought and action,—and has become part of patriotism itself. Such is the repugnance of the Genoese to a union with Piedmont: and such is commonly the peculiar horror which high-minded nations feel of the yoke of their immediate neighbours. The feelings of Norway towards Sweden,—of Portugal towards Spain,—and in former and less happy times of Scotland towards England,—are a few out of innumerable examples. There is nothing either unreasonable or unnatural in this state of national feelings. With neighbours there are most occasions of quarrel; with them there have been most

wars: from them there has been most suffering:—of them there is most fear. The resentment of wrongs, and the remembrance of victory, strengthen our repugnance to those who are most usually our enemies. It is not from illiberal prejudice, but from the constitution of human nature, that an Englishman animates his patriotic affections, and supports his national pride, by now looking back on victories over Frenchmen,—on Crecy and Agincourt, on Blenheim and Minden,—as our posterity will one day look back on Salamanca and Victoria. The defensive principle ought to be the strongest where the danger is likely most frequently to arise. What, then, will the House decide concerning the morality of compelling Genoa to submit to the yoke of Piedmont,—a state which the Genoese have constantly dreaded and hated, and against which their hatred was sharpened by continual apprehensions for their independence? Whatever construction may be attempted of Lord William Bentinck's Proclamations,—whatever sophistry may be used successfully, to persuade you that Genoa was disposable as a conquered territory, will you affirm that the disposal of it to Piedmont was a just and humane exercise of your power as a conqueror?

It is for this reason, among others, that I detest and execrate the modern doctrine of rounding territory, and following natural boundaries, and melting down small states into masses, and substituting lines of defence, and right and left flanks, instead of justice and the law of nations, and ancient possession and national feeling,—the system of Louis XIV. and Napoleon, of the spoilers of Poland, and of the spoilers of Norway and Genoa,—the system which the Noble Lord, when newly arrived from the Congress, and deeply imbued with its doctrines, in the course of his ample and elaborate invective against the memory and principles of ancient Europe, defined in two phrases so characteristic of his reverence for the rights of nations, and his tenderness for their feelings, that they ought not easily

to be forgotten, when he told us, speaking of this very antipathy of Genoa to Piedmont, "that great questions are not to be influenced by popular impressions," and "that a people may be happy without independence." The principal feature of this new system is the incorporation of neighbouring, and therefore hostile communities. The system of justice reverenced the union of men who had long been members of the same commonwealth, because they had all the attachments and antipathies which grow out of that fellowship:—the system of rapine tears asunder those whom nature has joined, and compels those to unite whom the contests of ages have rendered irreconcilable.

And if all this had been less evident, would no aggravation of this act have arisen from the peculiar nature of the general war of Europe against France? It was a war in which not only the Italians, but every people in Europe, were called by their sovereigns to rise for the recovery of their independence. It was a revolt of the people against Napoleon. It owed its success to the spirit of popular insurrection. The principle of a war for the restoration of independence, was a pledge that each people was to be restored to its ancient territory. The nations of Europe accepted the pledge, and shook off the French yoke. But was it for a change of Masters? Was it that three Foreign Ministers at Paris might dispose of the Genoese territory?—was it for this that the youth of Europe had risen in arms from Moscow to the Rhine?

> Ergo pari voto gessisti bella juventus?
> Tu quoque pro dominis et Pompeiana fuisti
> Non Romana manus! *

The people of Europe were, it seems, roused to war, not to overthrow tyranny, but to shift it into new hands, not to re-establish the independence and restore the ancient institutions of nations, but to strengthen the right flank of one great military power,

* Pharsalia, lib. ix. — Ed.

and to cover the left flank of another. This, at least, was not the war for the success of which I offered my most ardent prayers. I prayed for the deliverance of Europe, not for its transfer to other lords.—for the restoration of Europe, by which all men must have understood at least the re-establishment of that ancient system, and of those wise principles, under which it had become great and prosperous. I expected the re-establishment of every people in those territories, of which the sovereignty had been lost by recent usurpation.—of every people who had been an ancient member of the family of Europe.—of every people who had preserved the spirit and feelings which constitute a nation.—and, above all, of every people who had lost their territory or their independence under the tyranny which the Allies had taken up arms to overthrow. I expected a reverence for ancient boundaries.—a respect for ancient institutions,—certainly without excluding a prudent regard to the new interests and opinions which had taken so deep a root that they could not be torn up without incurring the guilt and the mischief of the most violent innovation.

The very same reasons, indeed, both of morality and policy (since I must comply so far with vulgar usage as to distinguish what cannot be separated) bound the Allied Sovereigns to respect the ancient institutions, and to regard the new opinions and interests of nations. The art of all government, not tyrannical, whatever may be its form, is to conduct mankind by their feelings. It is immoral to disregard the feelings of the governed, because it renders them miserable. It is, and it ought to be, dangerous to disregard these feelings, because bold and intelligent men will always consider it as a mere question of prudence, whether they ought to obey governments which counteract the only purpose for which they all exist. The feelings of men are most generally wounded by any violence to those ancient institutions under which these feelings have been formed, the national character

has been moulded, and to which all the habits and expectations of life are adapted. It was well said by Mr. Fox, that as ancient institutions have been sanctioned by a far greater concurrence of human judgments than modern laws can be, they are, upon democratic principles, more respectable. But new opinions and new interests, and a new arrangement of society, which has given rise to other habits and hopes, also excite the strongest feelings, which in proportion to their force and extent, claim the regard of all moral policy.

As it was doubtless the policy of the Allies to consider the claims of ancient possession as sacred, as far as the irrevocable changes of the political system would allow, the considerate part of mankind did, I believe, hope that they would hail the long-continued and recently-lost sovereignty of a territory as generally an inviolable right, and that, as they could not be supposed wanting in zeal for restoring the sovereignty of ancient reigning families, so they would guard that re-establishment, and render it respectable in the eyes of the world, by the impartiality with which they re-established also those ancient and legitimate governments of a republican form, which had fallen in the general slavery of nations. We remembered that republics and monarchies were alike called to join in the war against the French Revolution, not for forms of government, but for the existence of social order. We hoped that Austria—to select a striking example—would not pollute her title to her ancient dominion of Lombardy, by blending it with the faithless and lawless seizure of Venice. So little republican territory was to be restored, that the act of justice was to be performed, and the character of impartiality gained, at little expense;—even if such expense be measured by the meanest calculations of the most vulgar politics. Other vacant territory remained at the disposal of the Congress to satisfy the demands of policy. The sovereignty of the Ecclesiastical ter-

crimes might be fairly considered as lapsed: no reigning family could have any interest in it:—no people could be assumed to such a rule of dominion as supreme power. And in fact, these Principalities had lost all pride of independence and all consciousness of national existence. Several other territories of Europe had been reduced to a like condition. Geded, perhaps, in less questionable, they had been transferred at times from master to master,—they had been at long in a state of provincial degradation, that no violence could be offered to their feelings by any new transfer or partition. They were, as it were, a sort of splinters thrown off from nations in the shocks of warfare during two centuries: and they lay like stakes on the board to be played for at the terrible game which had detached them, and to satisfy the exchanges and cessions by which it is usually closed.

Perhaps the existence of such detached members is necessary in the European system: but they are in themselves great evils. They are amputated and lifeless members, which, as soon as they lose the vital principle of national spirit, no longer contribute aught to the vigour and safety of the whole living system. From them is to be expected no struggle against invasion,—no resistance to the designs of ambition,—no defence of their country. Individuals, but no longer a nation, they are the ready prey of every candidate for universal monarchy, who soon compels their passive inhabitants to fight for his ambition, as they would not fight against it, and to employ in enslaving other nations, that courage which they had no noble interest to exert in defence of their own. Why should I seek examples of this truth in former times? What opened Europe to the first inroads of the French armies?—not, I will venture to say, the mere smallness of the neighbouring states; for if every one of them had displayed as much national spirit in 1794, as the smallest states of Switzerland did in 1798, no French army could ever have left the territory of

France, — but the unhappy course of events, which had deprived Flanders, and the Electorates, and Lombardy, of all national spirit. Extinguished as this spirit was by the form of government in some of these countries, and crushed by a foreign yoke in others, — without the pride of liberty, which bestows the highest national spirit on the smallest nations, or the pride of power, which sometimes supplies its place in mighty empires, or the consciousness of self-dependence, without which there is no nationality, — they first became the prey of France, and afterwards supplied the arms with which she almost conquered the world. To enlarge this dead part of Europe, — to enrich it by the accession of countries renowned for their public feelings, — to throw Genoa into the same grave with Poland, with Venice, with Finland, and with Norway, — is not the policy of those who would be the preservers or restorers of the European commonwealth.

It is not the principle of the Balance of Power, but one precisely opposite. The system of preserving some equilibrium of power, — of preventing any state from becoming too great for her neighbours, is a system purely defensive, and directed towards the object of universal preservation. It is a system which provides for the security of all states by balancing the force and opposing the interests of great ones. The independence of nations is the end, the balance of power is only the means. To destroy independent nations, in order to strengthen the balance of power, is a most extravagant sacrifice of the end to the means. This inversion of all the principles of the ancient and beautiful system of Europe, is the fundamental maxim of what the Noble Lord, enriching our language with foreign phrases as well as doctrines, calls "a repartition of power." In the new system, small states are annihilated by a combination of great ones: — in the old, small states were secured by the mutual jealousy of the great.

The Noble Lord very consistently treats the re-

establishment of small states as an absurdity. This single tenet betrays the school in which he has studied. Undoubtedly, small communities are an absurdity, or rather their permanent existence is an impossibility, on his new system. They could have had no existence in the continual conquests of Asia; — they were soon destroyed amidst the turbulence of the Grecian confederacy: — they must be sacrificed on the system of rapine established at Vienna. Nations powerful enough to defend themselves, may subsist securely in most tolerable conditions of society: but states too small to be safe by their own strength, can exist only where they are guarded by the equilibrium of force, and the vigilance which watches over its preservation. When the Noble Lord represents small states as incapable of self-defence, he in truth avows that he is returned in triumph from the destruction of that system of the Balance of Power, of which indeed great empires were the guardians, but of which the perfect action was indicated by the security of feebler commonwealths. Under this system, no great violation of national independence had occurred from the first civilisation of the European states till the partition of Poland. The safety of the feeblest states, under the authority of justice, was so great, that there seemed little exaggeration in calling such a society the "commonwealth" of Europe. Principles, which stood in the stead of laws and magistrates, provided for the security of defenceless communities, as perfectly as the safety of the humblest individual is maintained in a well-ordered commonwealth. Europe can no longer be called a commonwealth, when her members have no safety but in their strength.

In truth, the Balancing system is itself only a secondary guard of national independence. The paramount principle — the moving power, without which all such machinery would be perfectly inert, is national spirit. The love of country, the attachment to laws and government, and even to soil and scenery, the

feelings of national glory in arms and arts, the remembrances of common triumph and common suffering, with the mitigated but not obliterated recollection of common enmity, and the jealousy of dangerous neighbours, — all are instruments employed by nature to draw more closely the bands of affection that bind us to our country and to each other. This is the only principle by which sovereigns can, in the hour of danger, rouse the minds of their subjects: — without it the policy of the Balancing system would be impotent.

The Congress of Vienna seems, indeed, to have adopted every part of the French system, except that they have transferred the dictatorship of Europe from an individual to a triumvirate. One of the grand and parent errors of the French Revolution was the fatal opinion that it was possible for human skill to make a government. It was an error too generally prevalent, not to be excusable. The American Revolution had given it a fallacious semblance of support; though no event in history more clearly showed its falsehood. The system of laws, and the frame of society in North America, remained after the Revolution, and remain to this day, fundamentally the same as they ever were. The change in America, like the change in 1688, was made in defence of legal right, not in pursuit of political improvement; and it was limited by the necessity of self-defence which produced it. The whole internal order remained, which had always been essentially republican. The somewhat slender tie which loosely joined these republics to a monarchy, was easily and without violence divided. But the error of the French Revolutionists was, in 1789, the error of Europe. From that error we have been long reclaimed by fatal experience. We know, or rather we have seen and felt, that a government is not, like a machine or a building, the work of man; that it is the work of nature, like the nobler productions of the vegetable and animal world, which man may improve, and damage, and even

destroy, but which he cannot create. We have long learned to despise the ignorance or the hypocrisy of those who speak of giving a free constitution to a people, and to exclaim with a great living poet —

> "A gift of that which never can be given
> By all the blended powers of earth and heaven!"

We have, perhaps, — as usual, — gone too near to the opposite error, and we do not make sufficient allowances for those dreadful cases — though we must not call them desperate, — where, in long enslaved countries, we must either humbly and cautiously labour to lay some foundations from which the fabric of liberty may slowly rise, or acquiesce in the doom of perpetual bondage.

But though we no longer dream of making governments, the confederacy of kings seem to feel no doubt of their own power to make nations. Yet the only reason why it is impossible to make a government is, because it is impossible to make a nation. A government cannot be made, because its whole spirit and principles arise from the character of the nation. There would be no difficulty in framing a government, if the habits of a people could be changed by a lawgiver; — if he could obliterate their recollections, transfer their attachment and reverence, extinguish their animosities, and correct those sentiments which, being at variance with his opinions of public interest, he calls prejudices. Now, this is precisely the power which our statesmen at Vienna have arrogated to themselves. They not only form nations, but they compose them of elements apparently the most irreconcilable. They made one nation out of Norway and Sweden: they tried to make another out of Prussia and Saxony. They have, in the present case, forced together Piedmont and Genoa to form a nation which is to guard the avenues of Italy, and to be one of the main securities of Europe against universal monarchy.

It was not the pretension of the ancient system to

form states, — to divide territory according to speculations of military convenience, — and to unite and dissolve nations better than the course of events had done before. It was owned to be still more difficult to give a new constitution to Europe, than to form a new constitution for a single state. The great statesmen of former times did not speak of their measures as the Noble Lord did about the incorporation of Belgium with Holland (against which I say nothing), "as a great improvement in the system of Europe." That is the language only of those who revolutionise that system by a partition like that of Poland, by the establishment of the Federation of the Rhine at Paris, or by the creation of new states at Vienna. The ancient principle was to preserve all those states which had been founded by time and nature, — which were animated by national spirit, and distinguished by the diversity of character which gave scope to every variety of talent and virtue, — whose character had been often preserved, and whose nationality had been even created, by those very irregularities of frontier and inequalities of strength, of which a shallow policy complains; — to preserve all those states, down to the smallest, first, by their own national spirit, and, secondly, by that mutual jealousy which made every great power the opponent of the dangerous ambition of every other. Its object was to preserve nations, as living bodies produced by the hand of nature, — not to form artificial dead machines, called "states," by the words and parchment of a diplomatic act. Under this ancient system, which secured the weak by the jealousy of the strong, provision was made alike for the permanency of civil institutions, the stability of governments, the progressive reformation of laws and constitutions, — for combining the general quiet with the highest activity and energy of the human mind, — for uniting the benefits both of rivalship and of friendship between nations, — for cultivating the moral sentiments of men, by the noble

spectacle of the long triumph of justice in the security of the defenceless, — and, finally, for maintaining uniform civilisation by the struggle as well as union of all the moral and intellectual combinations which compose that vast and various mass. It effected these noble purposes, not merely by securing Europe against one master, but by securing her against any union or conspiracy of sovereignty, which, as long as it lasts, is in no respect better than the domination of an individual. The object of the new system is to crush the weak by the combination of the strong, — to subject Europe, in the first place, to an oligarchy of sovereigns, and ultimately to swallow it up in the gulf of universal monarchy, in which civilisation has always perished, with freedom of thought, with controlled power, with national character and spirit, with patriotism and emulation, — in a word, with all its characteristic attributes, — and with all its guardian principles.

I am content, Sir, that these observations should be thought wholly unreasonable by those new masters of civil wisdom, who tell us that the whole policy of Europe consists in strengthening the right flank of Prussia and the left flank of Austria, — who see in that wise and venerable system, long the boast and the safeguard of Europe, only the millions of souls to be given to one Power, or the thousands of square miles to be given to another, — who consider the frontier of a river as a better protection for a country than the love of its inhabitants, — and who provide for the safety of their states by wounding the pride and mortifying the patriotic affection of a people, in order to fortify a line of military posts. To such statesmen I will apply the words of the great philosophical orator, who so long vainly laboured to inculcate wisdom in this House : — " All this, I know well enough, will sound wild and chimerical to the profane herd of those vulgar and mechanical politicians who have no place among us ; a sort of people who think that nothing exists

but what is gross and material; and who, therefore, far from being qualified to be directors of the great movement of empire, are not fit to turn a wheel in the machine. But to men truly initiated and rightly taught, these ruling and master principles, which, in the opinion of such men as I have mentioned, have no substantial existence, are in truth every thing, and all in all." This great man, in the latter part of his life, and when his opinions were less popular, was often justly celebrated for that spirit of philosophical prophecy which enabled him early to discern in their causes all the misfortunes which the leaders of the French Revolution were to bring on the world by their erroneous principles of reformation, — "quod ille pene solus Romanorum animo vidit, ingenio complexus est, eloquentia illuminavit:" but it has not been remembered, that his foresight was not limited to one party or to one source of evil. In one of his immortal writings *, — of which he has somewhat concealed the durable instruction by the temporary title, — he clearly enough points out the first scene of partition and rapine — the indemnifications granted out of the spoils of Germany in 1802: — "I see, indeed, a fund from whence equivalents will be proposed. It opens another Iliad of woes to Europe."

The policy of a conqueror is to demolish, to erect on new foundations, to bestow new names on authority, and to render every power around him as new as his own. The policy of a restorer is to re-establish, to strengthen, cautiously to improve, and to seem to recognise and confirm even that which necessity compels him to establish anew. But, in our times, the policy of the avowed conqueror has been adopted by the pretended restorers. The most minute particulars of the system of Napoleon are revived in the acts of those who overthrew his power. Even English officers, when they are compelled to carry such orders into

* Second Letter on a Regicide Peace. — Ed.

execution, become infected by the spirit of the system of which they are doomed to be the ministers. I cannot read without pain and shame the language of Sir John Dalrymple's Despatch, — language which I lament as inconsistent with the feelings of a British officer, and with the natural prejudices of a Scotch gentleman. I wish that he had not adopted the very technical language of Jacobin conquest, — "the downfall of the aristocracy," and "the irritation of the priests." I do not think it very decent to talk with levity of the destruction of a sovereignty exercised for six centuries by one of the most ancient and illustrious bodies of nobility in Europe.

Italy is, perhaps, of all civilised countries, that which affords the most signal example of the debasing power of provincial dependence, and of a foreign yoke. With independence, and with national spirit, they have lost, if not talent, at least the moral and dignified use of talent, which constitutes its only worth. Italy alone seemed to derive some hope of independence from those convulsions which had destroyed that of other nations. The restoration of Europe annihilated the hopes of Italy: — the emancipation of other countries announced her bondage. Stern necessity compelled us to suffer the re-establishment of foreign masters in the greater part of that renowned and humiliated country. But as to Genoa, our hands were unfettered; we were at liberty to be just, or, if you will, to be generous. We had in our hands the destiny of the last of that great body of republics which united the ancient and the modern world, — the children and heirs of Roman civilisation, who spread commerce, and with it refinement, liberty, and humanity over Western Europe, and whose history has lately been rescued from oblivion, and disclosed to our times, by the greatest of living historians.* I hope I shall not be thought fanciful when I say that Genoa, whose

* Sismondi.

greatness was founded on naval power, and which, in the earliest ages, gave the almost solitary example of a commercial gentry,—Genoa, the remnant of Italian liberty, and the only remaining hope of Italian independence, had peculiar claims—to say no more—on the generosity of the British nation. How have these claims been satisfied? She has been sacrificed to a frivolous, a doubtful, perhaps an imaginary, speculation of convenience. The most odious of foreign yokes has been imposed upon her by a free state,—by a people whom she never injured,—after she had been mocked by the re-appearance of her ancient government, and by all the ensigns and badges of her past glory. And after all this, she has been told to be grateful for the interest which the Government of England has taken in her fate. By this confiscation of the only Italian territory which was at the disposal of justice, the doors of hope have been barred on Italy for ever. No English general can ever again deceive Italians.

Will the House decide that all this is right?—That is the question which you have now to decide. To vote with me, it is not necessary to adopt my opinions in their full extent. All who think that the national faith has been brought into question,—all who think that there has been an unprecedented extension, or an ungenerous exercise of the rights of conquest,—are, I humbly conceive, bound to express their disapprobation by their votes. We are on the eve of a new war,—perhaps only the first of a long series,—in which there must be conquests and cessions, and there may be hard and doubtful exertions of rights in their best state sufficiently odious:—I call upon the House to interpose their counsel for the future in the form of an opinion regarding the past. I hope that I do not yield to any illusive feelings of national vanity, when I say that this House is qualified to speak the sentiments of mankind, and to convey them with authority to cabinets and thrones. Single among representative

assemblies, this House is now in the seventh century of its recorded existence. It appeared with the first dawn of legal government. It exercised the highest powers under the most glorious princes. It survived the change of a religion, and the extinction of a nobility,—the fall of Royal Houses, and an age of civil war. Depressed for a moment by the tyrannical power which is the usual growth of civil confusions, it revived with the first glimpse of tranquillity,—gathered strength from the intrepidity of religious reformation,—grew with the knowledge, and flourished with the progressive wealth of the people. After having experienced the excesses of the spirit of liberty during the Civil War, and of the spirit of loyalty at the Restoration, it was at length finally established at the glorious era of the Revolution; and although since that immortal event it has experienced little change in its formal constitution, and perhaps no accession of legal power, it has gradually cast its roots deep and wide, blending itself with every branch of the government, and every institution of society, and has, at length, become the grandest example ever seen among men of a solid and durable representation of the people of a mighty empire.

SPEECH

ON MOVING FOR A COMMITTEE TO INQUIRE

INTO

THE STATE OF THE CRIMINAL LAW.*

DELIVERED IN THE HOUSE OF COMMONS, ON THE 2D MARCH, 1819.

MR. SPEAKER,

I now rise, in pursuance of the notice which I gave, to bring before the House a motion for the appointment of a Select Committee "to consider of so much of the Criminal Laws as relates to Capital Punishment in Felonies, and to report their observations and opinions thereon to the House." And I should have immediately proceeded to explain the grounds and objects of such a motion, which is almost *verbatim* the same as a resolution entered on the Journals in the year 1770, when authority was delegated to a committee for the same purpose,—I should have proceeded, I say, to state at once why I think such an inquiry necessary, had it not been for some concessions made by the Noble Lord †

* This speech marks an epoch in the progress of the reformation of the Criminal Law, inasmuch as the motion with which it concluded, though opposed by Lord Castlereagh, with all the force of the Government, under cover of a professed enlargement of its principle, was carried by a majority of nineteen in a House of two hundred and seventy-five members. — ED.

† Viscount Castlereagh. — ED.

last night, which tend much to narrow the grounds of difference between us, and to simplify the question before the House. If I considered the only subject of discussion to be that which exists between the Noble Lord and myself, it would be reduced to this narrow compass:—namely, whether the Noble Lord's proposal or mine be the more convenient for the conduct of the same inquiry; but as every member in this House is a party to the question, I must make an observation or two on the Noble Lord's statements.

If I understood him rightly, he confesses that the growth of crime, and the state of the Criminal Law in this country, call for investigation, and proposes that these subjects shall be investigated by a Select Committee;—this I also admit to be the most expedient course. He expressly asserts also his disposition to make the inquiry as extensive as I wish it to be. As far, therefore, as he is concerned, I am relieved from the necessity of proving that an inquiry is necessary, that the appointment of a Select Committee is the proper course of proceeding in it, and that such inquiry ought to be extensive. I am thus brought to the narrower question, Whether the committee of the Noble Lord, or that which I propose, be the more convenient instrument for conducting an inquiry into the special subject to which my motion refers? I shall endeavour briefly to show, that the mode of proceeding proposed by him, although embracing another and very fit subject of inquiry, must be considered as precluding an inquiry into that part of the Criminal Law which forms the subject of my motion, for two reasons.

In the first place, Sir, it is physically impossible; and, having stated that, I may perhaps dispense with the necessity of adding more. We have heard from an Honourable Friend of mine*, whose authority is the highest that can be resorted to on this subject, that

* The Honourable Henry Grey Bennet. — Ed.

an inquiry into the state of two or three gaols occupied a committee during a whole session. My Honourable Friend*, a magistrate of the city, has stated that an inquiry into the state of the prisons of the Metropolis, occupied during a whole session the assiduous committtee over which he presided. When, therefore, the Noble Lord refers to one committee not only the state of the Criminal Law, but that of the gaols, of transportation, and of that little adjunct the hulks, he refers to it an inquiry which it can never conduct to an end; —he proposes, as my Honourable Friend† has said, to institute an investigation which must outlive a Parliament. The Noble Lord has in fact acknowledged, by his proposed subdivision, that it would be impossible for one committee to inquire into all the subjects which he would refer to it. And this impossibility he would evade by an unconstitutional violation of the usages of the House; as you, Sir, with the authority due to your opinions, have declared the proposition for subdividing a committee to be. I, on the other hand, in accordance with ancient usage, propose that the House shall itself nominate these separate committees.

My second objection is, Sir, that the Noble Lord's notice, and the order made by the House yesterday upon it, do not embrace the purpose which I have in view. To prove this, I might content myself with a reference to the very words of the instruction under which his proposed committee is to proceed. It is directed "to inquire into the state and description of gaols, and other places of confinement, and into the best method of providing for the reformation, as well as for the safe custody and punishment of offenders." Now, what is the plain meaning of those expressions? Are they not the same offenders, whose punishment as well as whose reformation and safe custody is contemplated? And does not the instruction thus

* Alderman Waithman. — Ed. † Mr. Bennet. — Ed.

directly exclude the subject of Capital Punishment? The matter is too plain to be insisted on; but must not the meaning, in any fair and liberal construction, be taken to be, that the committee is to consider the reformation and safe custody of those offenders of whom imprisonment forms the whole or the greatest part of the punishment? It would be absurd to suppose that the question of Capital Punishment should be made an inferior branch of the secondary question of imprisonments, and that the great subject of Criminal Law should skulk into the committee under the cover of one vague and equivocal word. On these grounds, Sir, I have a right to say that there is no comparison as to the convenience or the efficacy of the two modes of proceeding.

Let us now see whether my proposition casts a greater censure on the existing laws than his. Every motion for inquiry assumes that inquiry is necessary, —that some evil exists, which may be remedied. The motion of the Noble Lord assumes thus much: mine assumes no more; it casts no reflection on the law, or on the magistrates by whom it is administered.

With respect to the question whether Secondary Punishments should be inquired into before we dispose of the Primary, I have to say, that in proposing the present investigation I have not been guided by my own feelings, nor have I trusted entirely to my own judgment. My steps have been directed and assured by former examples.

The first of these is the notable one in 1750, when, in consequence of the alarm created by the increase of some species of crimes, a committee was appointed "to examine into and consider the state of the laws relating to felonies, and to report to the House their opinion as to the defects of those laws, and as to the propriety of amending or repealing them." What does the Noble Lord say to this large reference,—this ample delegation,—this attack on the laws of our ancestors? Was it made in bad times, by men of no

note, and of indifferent principles? I will mention the persons of whom the committee was composed:—they were, Mr. Pelham, then Chancellor of the Exchequer; Mr. Pitt, afterwards Lord Chatham; Mr. George Grenville, afterwards Lord Grenville; Mr. Lyttleton, and Mr. Charles Townsend, afterwards Secretaries of State; and Sir Dudley Ryder, the Attorney-General, afterwards Chief-Justice of England. Those great lawyers and statesmen will, at least, not be accused of having been rash theorists, or, according to the new word, "ultra-philosophers." But it will be thought remarkable that those great men, who were, in liberality, as superior to some statesmen of the present day, as in practical wisdom they were not inferior to them, found two sessions necessary for the inquiry into which they had entered. The first resolution to which those eminent and enlightened individuals agreed, was, "that it was reasonable to exchange the punishment of death for some other adequate punishment." Such a resolution is a little more general and extensive than that which I shall venture to propose;—such a resolution, however, did that committee, vested with the powers which I have already described, recommend to the adoption of the House. One circumstance, not necessarily connected with my present motion, I will take the liberty of mentioning:—to that committee the credit is due of having first denounced the Poor-laws as the nursery of crime. In this country pauperism and crime have always advanced in parallel lines, and with equal steps. That committee imputed much evil to the divisions among parishes on account of the maintenance of the poor. That committee, too, composed of practical men, as it was, made a statement which some practical statesmen of the present day will no doubt condemn as too large:—namely, "that the increase of crime was in a great measure to be attributed to the neglect of the education of the children of the poor." A bill was brought in, founded on the resolutions of the com-

mittee, and passed this House. It was, however, negatived in the House of Lords, although not opposed by any of the great names of that day,—by any of the luminaries of that House. Lord Hardwicke, for instance, did not oppose a bill, the principal object of which was the substitution of hard labour and imprisonment for the punishment of death.

In 1770, another alarm, occasioned by the increase of a certain species of crime, led to the appointment, on the 27th of November in that year, of another committee of the same kind, of which Sir Charles Saville, Sir William Meredith, Mr. Fox, Mr. Serjeant Glynn, Sir Charles Bunbury, and others, were members. To that committee the reference was nearly the same as that which I am now proposing; though mine be the more contracted one. That committee was occupied for two years with the branch of the general inquiry which the Noble Lord proposes to add to the already excessive labours of an existing committee. In the second session they brought their report to maturity; and, on that report, a bill was introduced for the repeal of eight or ten statutes, which bill passed the House of Commons without opposition. I do not mean to enter into the minute history of that bill, which was thrown out in the House of Lords. It met with no hostility from the great ornaments of the House of Lords of that day, Lord Camden and Lord Mansfield; but it was necessarily opposed by others whom I will not name, and whose names will be unknown to posterity.

Sir, it is upon these precedents that I have formed, and that I bring forward my motion. I have shown that the step I proposed to take accords with the usage of Parliament in the best of times, but that if we follow the plan recommended by the Noble Lord, we cannot effect the purpose which we have in view without evading or violating the usage of Parliament. Accepting, therefore, his concession, that a committee ought to be appointed for this investigation, here I

might take my stand, and challenge him to drive me from this ground, which, with all his talents, he would find some difficulty in doing. But I feel that there is a great difference between our respective situations; and that, although he last night contented himself with stating the evils which exist, without adverting to the other essential part of my proposal for a Parliamentary inquiry,—namely, the probability of a remedy,—I must take a different course. Although I cannot say that I agree with my Honourable Friend, who says that a Select Committee is not the proper mode of investigating this subject, yet I agree with him that there are two things necessary to justify an investigation, whether by a committee, or in any other manner:—the first is, the existence of an evil; the second is, the probability of a remedy. Far, therefore, from treating the sacred fabric reared by our ancestors more lightly, I approach it more reverently than does the Noble Lord. I should not have dared, merely on account of the number of offences, to institute an inquiry into the state of the Criminal Law, unless, while I saw the defects, I had also within view, not the certainty of a remedy (for that would be too much to assert), but some strong probability, that the law may be rendered more efficient, and a check be given to that which has alarmed all good men,—the increase of crime. While I do what I think it was the bounden duty of the Noble Lord to have done, I trust I shall not be told that I am a rash speculator,—that I am holding out impunity to criminals, or foreshadowing what he is pleased to call "a golden age for crime." Sir Dudley Ryder, at the head of the criminal jurisprudence of the country, and Serjeant Glynn, the Recorder of London,—an office that unhappily has the most extensive experience of the administration of Criminal Law in the world,—both believed a remedy to the evil in question to be practicable, and recommended it as necessary; and under any general reprobation which

the Noble Lord may apply to such men, I shall not be ashamed to be included.

I must now, Sir, mention what my object is not, in order to obviate the misapprehensions of over-zealous supporters, and the misrepresentations of desperate opponents. I do not propose to form a new criminal code. Altogether to abolish a system of law, admirable in its principle, interwoven with the habits of the English people, and under which they have long and happily lived, is a proposition very remote from my notions of legislation, and would be too extravagant and ridiculous to be for a moment listened to. Neither is it my intention to propose the abolition of the punishment of death. I hold the right of inflicting that punishment to be a part of the rights of self-defence, with which society as well as individuals are endowed. I hold it to be, like all other punishments, an evil when unnecessary, but, like any other evil employed to remedy a greater evil, capable of becoming a good. Nor do I wish to take away the right of pardon from the Crown. On the contrary, my object is, to restore to the Crown the practical use of that right, of which the usage of modern times has nearly deprived it.

The declaration may appear singular, but I do not aim at realising any universal principle. My object is, to bring the letter of the law more near to its practice,—to make the execution of the law form the rule, and the remission of its penalties the exception. Although I do not expect that a system of law can be so graduated, that it can be applied to every case without the intervention of a discretionary power, I hope to see an effect produced on the vicious, by the steady manner in which the law shall be enforced. The main part of the reform which I should propose would be, to transfer to the statute book the improvements which the wisdom of modern times has introduced into the practice of the law. But I must add, that even in the case of some of that practice with

which the feelings of good men are not in unison, I should propose such a reform as would correct that anomaly. It is one of the greatest evils which can befall a country when the Criminal Law and the virtuous feeling of the community are in hostility to each other. They cannot be long at variance without injury to one,—perhaps to both. One of my objects is to approximate them;—to make good men the anxious supporters of the Criminal Law, and to restore, if it has been injured, that zealous attachment to the law in general, which, even in the most tempestuous times of our history, has distinguished the people of England among the nations of the world.

Having made these few general remarks, I will now, Sir, enter into a few illustrative details. It is not my intention to follow the Noble Lord in his inquiry into the causes of the increase of crimes. I think that his statement last night was in the main just and candid. I agree with him, that it is consolatory to remark, that the crimes in which so rapid an increase has been observable, are not those of the blackest dye, or of the most ferocious character; that they are not those which would the most deeply stain and dishonour the ancient moral character of Englishmen; that they are crimes against property alone, and are to be viewed as the result of the distresses, rather than of the depravity of the community. I also firmly believe, that some of the causes of increased crime are temporary. But the Noble Lord and I, while we agree in this proposition, are thus whimsically situated:—he does not think that some of these causes are temporary which I conceive to be so; while, on the other hand, he sets down some as temporary, which I believe to be permanent. As to the increase of forgery, for example (which I mention only by way of illustration), I had hoped that when cash payments should be restored, that crime would be diminished. But the Noble Lord has taken pains to dissipate that delusion, by asserting that the withdrawal of such a mass of

paper from circulation would be attended with no such beneficial consequences. According to him, the progress of the country in manufactures and wealth, is one of the principal causes of crime. But is our progress in manufactures and wealth to be arrested? Does the Noble Lord imagine, that there exists a permanent and augmenting cause of crime,—at once increasing with our prosperity, and undermining it through its effects on the morals of the people? According to him, the increase of great cities would form another cause of crime. This cause, at least, cannot diminish, for great cities are the natural consequences of manufacturing and commercial greatness. In speaking, however, of the population of London, he has fallen into an error. Although London is positively larger now than it was in 1700, it is relatively smaller: —although it has since that time become the greatest commercial city in Europe,—the capital of an empire whose colonies extend over every quarter of the world,—London is not so populous now, with reference to the population of the whole kingdom, as it was in the reign of William III.

It is principally to those causes of crime, which arise out of errors in policy or legislation, that I wish to draw the attention of Parliament. Among other subjects, it may be a question whether the laws for the protection of the property called "game," have not created a clandestine traffic highly injurious to the morals of the labouring classes. I am happy to find that that subject is to be taken up by my Honourable Friend the Member for Hertfordshire *, who will draw to it the attention which every proposition of his deserves. A smuggling traffic of another species, although attended with nearly the same effects, has been fostered by some of the existing laws relating to the revenue. I would propose no diminution of revenue, for unfortunately we can spare none: but

* The Honourable Thomas Brand. — Ed.

there are some taxes which produce no revenue, and which were never intended to produce any, but which are, nevertheless, very detrimental. The cumbrous system of drawbacks, and protecting duties, is only a bounty on smuggling. Poachers and smugglers are the two bodies from which malefactors are principally recruited. The state which does not seek to remedy these diseases, is guilty of its own destruction.

Another subject I must mention: for, viewing it as I do, it would be unpardonable to omit it. On examining the summary of crimes which has been laid on the table, it appears that it was in 1808 that the great increase of crime took place. The number of crimes since that time has never fallen below the number of that year; although subsequent years have varied among one another. But it is extremely remarkable, and is, indeed, a most serious and alarming fact, that the year 1808 was precisely the period when the great issues of the Bank of England began. As it has been observed in the "Letter to the Right Honourable Member for the University of Oxford,"* a work which has been already mentioned in this House (the author † of which, although he has concealed his name, cannot conceal his talents, and his singular union of ancient learning with modern science), it was at that time that pauperism and poor rates increased. Pauperism and crime, as I have before said, go hand in hand. Both were propelled by the immense issues of Bank paper in 1808. By those issues the value of the one-pound note was reduced to fourteen shillings. Every labourer, by he knew not what mysterious power,—by causes which he could not discover or comprehend,—found his wages diminished at least in the proportion of a third. No enemy had ravaged the country; no inclement season had blasted the produce of the soil; but his comforts were curtailed, and his enjoy-

* The Right Honourable Robert Peel. — Ed.

† The Rev. Edward Copleston (now Bishop of Llandaff).—Ed.

ments destroyed by the operation of the paper system, —which was to him like the workings of a malignant fiend, that could be traced only in their effects. Can any one doubt that this diminution of the income of so many individuals, from the highest to the lowest classes of society, was one of the chief sources of the increase of crime?

There is one other secondary cause of crime, which I hope we have at length seriously determined to remove;—I mean the state of our prisons. They never were fitted for reformation by a wise system of discipline: but that is now become an inferior subject of complaint. Since the number of criminals have outgrown the size of our prisons, comparatively small offenders have been trained in them to the contemplation of atrocious crime. Happily this terrible source of evil is more than any other within our reach. Prison discipline may fail in reforming offenders: but it is our own fault if it further corrupts them.

But the main ground which I take is this,—that the Criminal Law is not so efficacious as it might be, if temperate and prudent alterations in it were made. It is well known that there are two hundred capital felonies on the statute book; but it may not be so familiar to the House, that by the Returns for London and Middlesex, it appears that from 1749 to 1819, a term of seventy years, there are only twenty-five sorts of felonies for which any individuals have been executed. So that there are a hundred and seventy-five capital felonies respecting which the punishment ordained by various statutes has not been inflicted. In the thirteen years since 1805, it appears that there are only thirty descriptions of felonies on which there have been any capital convictions throughout England and Wales. So that there are a hundred and seventy felonies created by law, on which not one capital conviction has taken place. This rapidly increasing discordance between the letter and the practice of the Criminal Law, arose in the best times of our history,

and, in my opinion, out of one of its most glorious and happy events. As I take it, the most important consequence of the Revolution of 1688, was the establishment in this country of a Parliamentary government. That event, however, has been attended by one inconvenience — the unhappy facility afforded to legislation. Every Member of Parliament has had it in his power to indulge his whims and caprices on that subject; and if he could not do any thing else, he could create a capital felony! The anecdotes which I have heard of this shameful and injurious facility, I am almost ashamed to repeat. Mr. Burke once told me, that on a certain occasion, when he was leaving the House, one of the messengers called him back, and on his saying that he was going on urgent business, replied, "Oh! it will not keep you a single moment, it is only a felony without benefit of clergy!" He also assured me, that although, as may be imagined, from his political career, he was not often entitled to ask favour from the ministry of the day, he was persuaded that his interest was at any time good enough to obtain their assent to the creation of a felony without benefit of clergy. This facility of granting an increase of the severity of the law to every proposer, with the most impartial disregard of political considerations, — this unfortunate facility, arose at a time when the humane feelings of the country were only yet ripening amidst the diffusion of knowledge. Hence originated the final separation between the letter and the practice of the law; for both the government and the nation revolted from the execution of laws which were regarded, not as the results of calm deliberation or consummate wisdom, but rather as the fruit of a series of perverse and malignant accidents, impelling the adoption of temporary and short-sighted expedients. The reverence, therefore, generally due to old establishments, cannot belong to such laws.

This most singular, and most injurious opposition of the legislative enactments, and their judicial enforce-

ment, has repeatedly attracted the attention of a distinguished individual, who unites in himself every quality that could render him one of the greatest ornaments of this House, and whom, as he is no longer a member, I may be permitted to name,—I mean Sir William Grant,—a man who can never be mentioned by those who know him without the expression of their admiration—a man who is an honour, not merely to the profession which he has adorned but to the age in which he lives—a man who is at once the greatest master of reason and of the power of enforcing it,—whose sound judgment is accompanied by the most perspicuous comprehension,—whose views, especially on all subjects connected with legislation, or the administration of the law, are directed by the profoundest wisdom,—whom no one ever approaches without feeling his superiority,—who only wants the two vices of ostentation and ambition (vices contemned by the retiring simplicity and noble modesty of his nature) to render his high talents and attainments more popularly attractive. We have his authority for the assertion, that the principle of the Criminal Law is diametrically opposite to its practice. On one occasion particularly, when his attention was called to the subject, he declared it to be impossible "that both the law and the practice could be right; that the toleration of such discord was an anomaly that ought to be removed; and that, as the law might be brought to an accordance with the practice, but the practice could never be brought to an accordance with the law, the law ought to be altered for a wiser and more humane system." At another time, the same eminent individual used the remarkable expression, "that during the last century, there had been a general confederacy of prosecutors, witnesses, counsel, juries, judges, and the advisers of the Crown, to prevent the execution of the Criminal Law." Is it fitting that a system should continue which the whole body of the intelligent community combine to resist, as a disgrace to our nature and nation?

Sir, I feel that I already owe much to the indulgence of the House, and I assure you that I shall be as concise as the circumstances of the case, important as it confessedly is, will allow; and more especially in the details attendant upon it. The Noble Lord last night dwelt much upon the consequences of a transition from war to peace in the multiplication of crimes; but, upon consulting experience, I do not find that his position is borne out. It is not true that crime always diminishes during a state of war, or that it always increases after its conclusion. In the Seven-Years' War, indeed, the number of crimes was augmented,—decreasing after its termination. They were more numerous in the seven years preceding the American War, and continued to advance, not only during those hostilities, but, I am ready to admit, after the restoration of peace. It is, however, quite correct to state, that there was no augmentation of crime which much outran the progress of population until within about the last twenty, and more especially within the last ten years; and that the augmentation which has taken place is capable of being accounted for, without any disparagement to the ancient and peculiar probity of the British character.

As to the variations which have taken place in the administration of the law, with respect to the proportion of the executions to the convictions, some of them have certainly been remarkable. Under the various administrations of the supreme office of the law, down to the time of Lord Thurlow, the proportion of executions to convictions was for the most part uniform. Lord Rosslyn was the first Chancellor under whose administration a great diminution of executions as compared with convictions, is to be remarked; and this I must impute, not only to the gentle disposition of that distinguished lawyer, but to the liberality of those principles which, however unfashionable they may now have become, were entertained by his early connexions. Under Lord Rosslyn's administration of

the law, the proportion of executions was diminished to one in eight, one in nine, and finally as low as one in eleven.

But, Sir, to the Noble Lord's argument, grounded on the diminution in the number of executions, I wish to say a few words. If we divide crimes into various sorts, separating the higher from the inferior offences, we shall find, that with respect to the smaller felonies, the proportion of executions to convictions has been one in twenty, one in thirty, and in one year, only one in sixty. In the higher felonies (with the exception of burglary and robbery, which are peculiarly circumstanced) the law has been uniformly executed. The Noble Lord's statement, therefore, is applicable only to the first mentioned class; and a delusion would be the result of its being applied unqualifiedly to the whole criminal code.

For the sake of clearness, I will divide the crimes against which our penal code denounces capital punishments into three classes. In the first of these I include murder, and murderous offences, or such offences as are likely to lead to murder, such as shooting or stabbing, with a view to the malicious destruction of human life: — in these cases the law is invariably executed. In the second class appear arson, highway-robbery, piracy, and other offences, to the number of nine or ten, which it is not necessary, and which it would be painful, to specify: — on these, at present, the law is carried into effect in a great many instances. In these two first divisions I will admit, for the present, that it would be unsafe to propose any alteration. Many of the crimes comprehended in them ought to be punished with death. Whatever attacks the life or the dwelling of man deserves such a punishment; and I am persuaded that a patient and calm investigation would remove the objections of a number of well-meaning persons who are of a contrary opinion.*

* This passage is left intact on account of the momentous

But looking from these offences at the head of the criminal code to the other extremity of it, I there find a third class of offences, — some connected with frauds of various kinds, but others of the most frivolous and fantastic description, — amounting in number to about one hundred and fifty, against which the punishment of death is still denounced by the law, although never carried into effect. Indeed, it would be most absurd to suppose that an execution would in such cases be now tolerated, when one or two instances even in former times excited the disgust and horror of all good men. There can be no doubt — even the Noble Lord, I apprehend, will not dispute — that such capital felonies should be expunged from our Statute Book as a disgrace to it. Can any man think, for instance, that such an offence as that of cutting down a hop vine or a young tree in a gentleman's pleasure ground should remain punishable with death? The "Black Act," as it is called, alone created about twenty-one capital felonies, — some of them of the most absurd description. Bearing particular weapons, — having the face blackened at night, — and being found disguised upon the high road, — were some of them. So that if a gentleman is going to a masquerade, and is obliged to pass along a highway, he is liable, if detected, to be hanged without benefit of clergy! Who, again, can endure the idea that a man is exposed to the punishment of death for such an offence as cutting the head of a fish-pond? Sir, there are many more capital felonies of a similar nature, which are the relics of barbarous times, and which are disgraceful to the character of a thinking and enlightened people. For such offences punishments quite adequate and sufficiently numerous would remain. It is undoubtedly true, that for the last seventy years no capital punishment has been inflicted for such offences; the statutes denounc-

nature of its subject-matter, but the speaker has evidently been here too loosely reported. — Ed.

ing them are therefore needless. And I trust I shall never live to see the day when any member of this House will rise and maintain that a punishment avowedly needless ought to be continued.

The debateable ground on this subject is afforded by a sort of middle class of offences, consisting of larcenies and frauds of a heinous kind, although not accompanied with violence and terror. It is no part of my proposal to take away the discretion which is reposed in the judicial authorities respecting these offences. Nothing in my mind would be more imprudent than to establish an undeviating rule of law, —a rule that in many cases would have a more injurious and unjust operation than can easily be imagined. I do not, therefore, propose in any degree to interfere with the discretion of the judges, in cases in which the punishment of death ought, under certain aggravated circumstances, to attach, but only to examine whether or not it is fit that death should remain as the punishment expressly directed by the law for offences, which in its administration are never, even under circumstances of the greatest aggravation, more severely punished than with various periods of transportation.

It is impossible to advert to the necessity of reforming this part of the law, without calling to mind the efforts of that highly distinguished and universally lamented individual, by whom the attention of Parliament was so often roused to the subject of our penal code. Towards that excellent man I felt all the regard which a friendship of twenty years' duration naturally inspired, combined with the respect which his eminently superior understanding irresistibly claimed. But I need not describe his merits; to them ample justice has been already done by the unanimous voice of the Empire, seconded by the opinion of all the good men of all nations, —and especially by the eulogium of the Honourable Member for Bramber *, whose

* Mr. Wilberforce. — Ed.

kindred virtues and kindred eloquence enable him justly to appreciate the qualities of active philanthropy and profound wisdom. I trust the House will bear with me if, while touching on this subject, I cannot restrain myself from feebly expressing my admiration for the individual by whose benevolent exertions it has been consecrated. There was, it is well known, an extraordinary degree of original sensibility belonging to the character of my lamented Friend, combined with the greatest moral purity, and inflexibility of public principle; but yet, with these elements, it is indisputably true, that his conduct as a statesman was always controlled by a sound judgment, duly and deliberately weighing every consideration of legislative expediency and practical policy. This was remarkably shown in his exertions respecting the criminal code. In his endeavours to rescue his country from the disgrace arising out of the character of that code, he never indulged in any visionary views; —he was at once humane and just,—generous and wise. With all that ardour of temperament with which he unceasingly pursued the public good, never was there a reformer more circumspect in his means, —more prudent in his end;—and yet all his propositions were opposed. In one thing, however, he succeeded,—he redeemed his country from a great disgrace, by putting a stop to that career of improvident and cruel legislation, which, from session to session, was multiplying capital felonies. Sir, while private virtue and public worth are distinguished among men, the memory of Sir Samuel Romilly will remain consecrated in the history of humanity. According to the views of my lamented Friend, the punishment of death ought not to attach by law to any of those offences for which transportation is a sufficient punishment, and for which, in the ordinary administration of the law by the judges, transportation alone is inflicted. In that view I entirely concur.

I will not now enter into any discussion of the doctrine of Dr. Paley with respect to the expediency of investing judges with the power of inflicting death even for minor offences, where, in consequence of the character of the offence and of the offender, some particular good may appear to be promised from the example of such a punishment on a mischievous individual. The question is, whether the general good derived by society from the existence of such a state of the law is so great as to exceed the evil. And I may venture to express my conviction, that the result of such an inquiry as that which I propose will be to show, that the balance of advantage is decidedly against the continuance of the existing system. The late Lord Chief Justice of the Common Pleas *, whose authority is undoubtedly entitled to great consideration in discussing this question, expressed an opinion, that if the punishment of death for certain crimes were inflicted only in one case out of sixty, yet that the chance of having to undergo such a punishment must serve to impose an additional terror on the ill-disposed, and so operate to prevent the commission of crime. But I, on the contrary, maintain that such a terror is not likely to arise out of this mode of administering the law. I am persuaded that a different result must ensue; because this difference in the punishment of the same offence must naturally encourage a calculation in the mind of a person disposed to commit crime, of the manifold chances of escaping its penalties. It must also operate on a malefactor's mind in diminution of the terrors of transportation. Exulting at his escape from the more dreadful infliction, joy and triumph must absorb his faculties, eclipsing and obscuring those apprehensions and regrets with which he would otherwise have contemplated the lesser penalty, and inducing him, like Cicero, to consider exile as a refuge rather than as a punish-

* Sir Vicary Gibbs. — Ed.

ment. In support of this opinion I will quote the authority of one who, if I cannot describe him as an eminent lawyer, all will agree was a man deeply skilled in human nature, as well as a most active and experienced magistrate,—I allude to the celebrated Henry Fielding. In a work of his, published at the period when the first Parliamentary inquiry of this nature was in progress, intituled "A Treatise on the Causes of Crime," there is this observation:—"A single pardon excites a greater degree of hope in the minds of criminals than twenty executions excite of fear." Now this argument I consider to be quite analogous to that which I have just used with reference to the opinion of the late Chief Justice of the Common Pleas, because the chance of escape from death, in either case, is but too apt to dislodge all thought of the inferior punishments.

But, Sir, another most important consideration is, the effect which the existing system of law has in deterring injured persons from commencing prosecutions, and witnesses from coming forward in support of them. The chances of escape are thus multiplied by a system which, while it discourages the prosecutor, increases the temptations of the offender. The better part of mankind, in those grave and reflecting moments which the prosecution for a capital offence must always bring with it, frequently shrink from the task imposed on them. The indisposition to prosecute while the laws continue so severe, is matter of public notoriety. This has been evinced in various cases. It is not long since an act of George II., for preserving bleaching-grounds from depredation, was repealed on the proposition of Sir Samuel Romilly, backed by a petition from the proprietors of those grounds, who expressed their unwillingness to prosecute while the law continued so severe, and who represented that, by the impunity thus given to offenders, their property was left comparatively unprotected. An eminent city banker has also been very recently heard to declare

in this House that bankers frequently declined to prosecute for the forgery of their notes in consequence of the law which denounced the punishment of death against such an offence. It is notorious that the concealment of a bankrupt's effects is very seldom prosecuted, because the law pronounces that to be a capital offence: it is undoubtedly, however, a great crime, and would not be allowed to enjoy such comparative impunity were the law less severe.

There is another strong fact on this subject, to which I may refer, as illustrating the general impression respecting the Criminal Law; — I mean the Act which was passed in 1812, by which all previous enactments of capital punishments for offences against the revenue not specified in it were repealed. That Act I understand was introduced at the instance of certain officers of the revenue. And why? — but because from the excessive severity of the then existing revenue laws, the collectors of the revenue themselves found that they were utterly inefficient. But I have the highest official authority to sustain my view of the criminal code. I have the authority of the late Chief Baron of the Exchequer, Sir Archibald Macdonald, who, when he held the office of Attorney-General, which he discharged with so much honour to himself, and advantage to the country, distinctly expressed his concurrence in the opinion of Lord Bacon that great penalties deadened the force of the laws.

The House will still bear in mind, that I do not call for the entire abolition of the punishment of death, but only for its abolition in those cases in which it is very rarely, and ought never to be, carried into effect. In those cases I propose to institute other, milder, but more invariable punishments. The courts of law should, in some cases, be armed with the awful authority of taking away life: but in order to render that authority fully impressive, I am convinced that the punishment of death should be abolished where inferior punishments are not only applicable, but are

usually applied. Nothing indeed can, in my opinion, be more injurious than the frequency with which the sentence of death is at the present time pronounced from the judgment-seat, with all the solemnities prescribed on such an occasion, when it is evident, even to those against whom it is denounced, that it will never be carried into effect. Whenever that awful authority, — the jurisdiction over life and death, is disarmed of its terrors by such a formality, the law is deprived of its beneficent energy, and society of its needful defence.

Sir William Grant, in a report of one of his speeches which I have seen, observes, "that the great utility of the punishment of death consists in the horror which it is naturally calculated to excite against the criminal: and that all penal laws ought to be in unison with the public feeling; for that when they are not so, and especially when they are too severe, the influence of example is lost, sympathy being excited towards the criminal, while horror prevails against the law." Such indeed was also the impression of Sir William Blackstone, of Mr. Fox, and of Mr. Pitt. It is also the opinion of Lord Grenville, expressed in a speech * as distinguished for forcible reasoning, profound wisdom, and magnificent eloquence, as any that I have ever heard.

It must undoubtedly happen, even in the best regulated conditions of society, that the laws will be sometimes at variance with the opinions and feelings of good men. But that, in a country like Great Britain, they should remain permanently in a state not less inconsistent with obvious policy than with the sentiments of all the enlightened and respectable classes of the community, is indeed scarcely credible. I should not be an advocate for the repeal of any law because it happened to be in opposition to temporary pre-

* Since published by Mr. Basil Montagu, in his Collections On the Punishment of Death. — Ed.

judices: but I object to the laws to which I have alluded, because they are inconsistent with the deliberate and permanent opinion of the public. In all nations an agreement between the laws and the general feeling of those who are subject to them is essential to their efficacy: but this agreement becomes of unspeakable importance in a country in which the charge of executing the laws is committed in a great measure to the people themselves.

I know not how to contemplate, without serious apprehension, the consequences that may attend the prolongation of a system like the present. It is my anxious desire to remove, before they become insuperable, the impediments that are already in the way of our civil government. My object is to make the laws popular,—to reconcile them with public opinion, and thus to redeem their character. It is to render the execution of them easy,—the terror of them overwhelming,—the efficacy of them complete,—that I implore the House to give to this subject their most grave consideration. I beg leave to remind them, that Sir William Blackstone has already pointed out the indispensable necessity under which juries frequently labour of committing, in estimating the value of stolen property, what he calls "pious perjuries." The resort to this practice in one of the wisest institutions of the country, so clearly indicates the public feeling, that to every wise statesman it must afford an instructive lesson. The just and faithful administration of the law in all its branches is the great bond of society,—the point at which authority and obedience meet most nearly. If those who hold the reins of government, instead of attempting a remedy, content themselves with vain lamentations at the growth of crime,—if they refuse to conform the laws to the opinions and dispositions of the public mind, that growth must continue to spread among us a just alarm.

With respect to petitions upon this subject, I have reason to believe that, in a few days, many will be

presented from a body of men intimately connected with the administration of the Criminal Law,—I mean the magistracy of the country,—praying for its revision. Among that body I understand that but little difference of opinion prevails, and that when their petitions shall be presented, they will be found subscribed by many of the most respectable individuals in the empire as to moral character, enlightened talent, and general consideration. I did not, however, think it right to postpone my motion for an inquiry so important until those petitions should be actually laid on the table. I should, indeed, have felt extreme regret if the consideration of this question had been preceded by petitions drawn up and agreed to at popular and tumultuary assemblies. No one can be more unwilling than myself to see any proceeding that can in the slightest degree interfere with the calm, deliberate, and dignified consideration of Parliament, more especially on a subject of this nature.

The Petition from the City of London, however, ought to be considered in another light, and is entitled to peculiar attention. It proceeds from magistrates accustomed to administer justice in a populous metropolis, and who necessarily possess very great experience. It proceeds from a body of most respectable traders—men peculiarly exposed to those depredations against which Capital Punishment is denounced. An assembly so composed, is one of weight and dignity; and its representations on this subject are entitled to the greater deference, inasmuch as the results of its experience appear to be in direct opposition to its strongest prejudices. The first impulse of men whose property is attacked, is to destroy those by whom the attack is made: but the enlightened traders of London perceive, that the weapon of destruction which our penal code affords, is ineffective for its purpose; they therefore, disabusing themselves of vulgar prejudice, call for the revision of that code.

Another Petition has been presented to the House

which I cannot pass over without notice: I allude to one from that highly meritorious and exemplary body of men—the Quakers. It has, I think, been rather hardly dealt by; and has been described as containing very extravagant recommendations; although the prayer with which it concludes is merely for such a change in the Criminal Law as may be consistent with the ends of justice. The body of the Petition certainly deviates into a speculation as to the future existence of some happier condition of society, in which mutual goodwill may render severe punishments unnecessary. But this is a speculation in which, however unsanctioned by experience, virtuous and philosophical men have in all ages indulged themselves, and by it have felt consoled for the evils by which they have been surrounded. The hope thus expressed, has exposed these respectable Petitioners to be treated with levity: but they are much too enlightened not to know that with such questions statesmen and lawyers, whose arrangements and regulations must be limited by the actual state and the necessary wants of a community, have no concern. And while I make these remarks, I cannot but request the House to recollect what description of people it is to whom I apply them,—a people who alone of all the population of the kingdom send neither paupers to your parishes, nor criminals to your gaols,—a people who think a spirit of benevolence an adequate security to mankind (a spirit which certainly wants but the possibility of its being universal to constitute the perfection of our nature)—a people who have ever been foremost in undertaking and promoting every great and good work,—who were among the first to engage in the abolition of the slave trade, and who, by their firm yet modest perseverance, paved the way for the accomplishment of that incalculable benefit to humanity. Recollecting all this, and recollecting the channel through which this Petition was presented to the House*, I consider it to be

* It had been presented by Mr. Wilberforce. — Ed.

entitled to anything but disrespect. The aid of such a body must always be a source of encouragement to those who are aiming at any amelioration of the condition of human beings; and on this occasion it inspires me, not only with perfect confidence in the goodness of my cause, but with the greatest hopes of its success.

SPEECH

ON

MR. BROUGHAM'S MOTION

FOR

AN ADDRESS TO THE CROWN,

WITH REFERENCE TO

THE TRIAL AND CONDEMNATION

OF

THE REV. JOHN SMITH,

OF DEMERARA.

DELIVERED IN THE HOUSE OF COMMONS, ON THE
1ST OF JUNE, 1824.

SPEECH, &c.*

MR. SPEAKER,—Even if I had not been loudly called upon, and directly challenged by the Honourable Gentleman†,—even if his accusations, now repeated

* The Rev. John Smith, an Independent minister, had been sent out to Demerara in the year 1816 by the London Missionary Society. The exemplary discharge of his sacred functions on the eastern shore of that colony for six years, amid difficulties which are said to have distinguished Demerara even among all her sister slave colonies, had so far impaired his health, that he was, by medical advice, on the point of leaving the country for a more salubrious climate, when, in the month of August, 1823, a partial insurrection of the negroes in his neighbourhood proved the means of putting a period alike to his labours and his life. The rising was not of an extensive or organised character, and was, in fact, suppressed immediately, with little loss of life or property. Its suppression was, however, immediately followed by the establishment of martial law, and the arrest of Mr. Smith as privy beforehand to the plot. As the evidence in support of this charge had necessarily to be extracted for the most part from prisoners trembling for their own lives, incurable suspicion would seem to attach to the whole of it; though candour must admit, on a careful consideration of the whole circumstances, including the sensitive feelings and ardent temperament of the accused, that it was not impossible that he had been made the involuntary depositary of the confidence of his flock. It was not till he had been in prison for nearly two months that Mr. Smith, on the 14th of October, was brought to trial before a court-martial. After proceedings abounding in irregularities, which lasted for six weeks, he was found guilty, and sentenced to death, but was recommended to the mercy of the Crown. He died in prison on the 6th of February following, awaiting the result. Sir James Mackintosh had presented, at an earlier period of the session, the appeal of the London Missionary Society on behalf of his memory and his widow. The present speech was delivered in support of Mr. Brougham's motion for an Address to the Crown on the subject. — ED.

† Mr. Wilmot Horton, who conducted the defence of the authorities at Demerara. — ED.

after full consideration, did not make it my duty to vindicate the Petition which I had the honour to present from unjust reproach, I own that I should have been anxious to address the House on this occasion; not to strengthen a case already invincible, but to bear my solemn testimony against the most unjust and cruel abuse of power, under a false pretence of law, that has in our times dishonoured any portion of the British empire. I am sorry that the Honourable Gentleman, after so long an interval for reflection, should have this night repeated those charges against the London Missionary Society, which when he first made them I thought rash, and which I am now entitled to treat as utterly groundless. I should regret to be detained by them for a moment, from the great question of humanity and justice before us, if I did not feel that they excite a prejudice against the case of Mr. Smith, and that the short discussion sufficient to put them aside, leads directly to the vindication of the memory of that oppressed man.

The Honourable Gentleman calls the London Missionary Society "bad philosophers,"—by which, I presume, he means bad reasoners,—because they ascribe the insurrection partly "to the long and inexplicable delay of the government of Demerara in promulgating the instructions favourable to the slave population;" and because he, adopting one of the arguments of that speech by which the deputy-judge-advocate disgraced his office, contends that a partial revolt cannot have arisen from a general cause of discontent,—a position belied by the whole course of history, and which is founded upon the absurd assumption, that one part of a people, from circumstances sometimes easy, sometimes very hard to be discovered, may not be more provoked than others by grievances common to all. So inconsistent, indeed, is the defence of the rulers of Demerara with itself, that in another part of the case they represent a project for an universal insurrection as having been formed, and ascribe its being, in fact,

confined to the east coast, to unaccountable accidents. Paris, the ringleader, in what is called his "confession," (to be found in the Demerara Papers, No. II., p. 21.) says, "The whole colony was to have risen on Monday; and I cannot account for the reasons why only the east coast rose at the time appointed." So that, according to this part of their own evidence, they must abandon their argument, and own the discontent to have been as general as the grievance.

Another argument against the Society's Petition, is transplanted from the same nursery of weeds. It is said, that cruelty cannot have contributed to this insurrection, because the leaders of the revolt were persons little likely to have been cruelly used, being among the most trusted of the slaves. Those who employ so gross a fallacy, must be content to be called worse reasoners than the London Missionary Society. It is, indeed, one of the usual common-places in all cases of discontent and tumult; but it is one of the most futile. The moving cause of most insurrections, and in the opinion of two great men (Sully and Burke) of all, is the distress of the great body of insurgents; but the ringleaders are generally, and almost necessarily, individuals who, being more highly endowed or more happily situated, are raised above the distress which is suffered by those of whom they take the command.

But the Honourable Gentleman's principal charge against the Petition, is the allegation contained in it, "that the life of no white man was voluntarily taken away by the slaves." When I heard the confidence with which a confutation of this averment was announced, I own I trembled for the accuracy of the Petition. But what was my astonishment, when I heard the attempt at confutation made! In the Demerara Papers, No. II., there is an elaborate narrative of an attack on the house of Mrs. Walrand, by the insurgents, made by that lady, or for her—a caution in statements which the subsequent parts of these

proceedings prove to be necessary in Demerara. The Honourable Gentleman has read the narrative, to show that two lives were unhappily lost in this skirmish; and this he seriously quotes as proving the inaccuracy of the Petition. Does he believe,—can he hope to persuade the House, that the Petitioners meant to say, that there was an insurrection without fighting, or skirmishes without death? The attack and defence of houses and posts are a necessary part of all revolts; and deaths are the natural consequences of that, as well as of every species of warfare. The revolt in this case was, doubtless, an offence; the attack on the house was a part of that offence: the defence was brave and praiseworthy. The loss of lives is deeply to be deplored; but it was inseparable from all such unhappy scenes: it could not be the "voluntary killing," intended to be denied in the Petition. The Governor of Demerara, in a despatch to Lord Bathurst, makes the same statement with the Petition:—"I have not," he says, "heard of one white who was deliberately murdered:" yet he was perfectly aware of the fact which has been so triumphantly displayed to the House. "At plantation Nabaclis, where the whites were on their guard, two out of three were killed in the defence of their habitations." The defence was legitimate, and the deaths lamentable: but, as the Governor distinguishes them from murder, so do the Society. They deny that there was any killing in cold blood. They did not mean to deny,—any more than to affirm—(for the Papers which mention the fact were printed since their Petition was drawn up), that there was killing in battle, when each party were openly struggling to destroy their antagonists and to preserve themselves. The Society only denies that this insurrection was dishonoured by those murders of the unoffending or of the vanquished, which too frequently attend the revolts of slaves. The Governor of Demerara agrees with them; the whole facts of the case support them; and the quo-

tation of the Honourable Gentleman leaves their denial untouched. The revolt was absolutely unstained by excess. The killing of whites, even in action, was so small as not to appear in the trial of Mr. Smith, or in the first accounts laid before us. I will not stop to inquire whether "killing in action" may not, in a strictly philosophical sense, be called "voluntary." It is enough for me, that no man will call it calm, needless, or deliberate.

This is quite sufficient to justify even the words of the Petition. The substance of it is now more than abundantly justified by the general spirit of humanity which pervaded the unhappy insurgents, — by the unparalleled forbearance and moderation which characterised the insurrection. On this part of the subject, so important to the general question, as well as to the character of the Petition for accuracy, the London Missionary Society appeal to the highest authority, that of the Reverend Mr. Austin, not a missionary or a methodist, but the chaplain of the colony, a minister of the Church of England, who has done honour even to that Church, so illustrious through the genius and learning and virtue of many of her clergy, by his Christian charity, — by his inflexible principles of justice, — by his intrepid defence of innocence against all the power of a government, and against the still more formidable prejudices of an alarmed and incensed community. No man ever did himself more honour by the admirable combination of strength of character with sense of duty; which needed nothing but a larger and more elevated theatre to place him among those who will be in all ages regarded by mankind as models for imitation and objects of reverence. That excellent person, — speaking of Mr. Smith, a person with whom he was previously unacquainted, a minister of a different persuasion, a missionary, considered by many of the established clergy as a rival, if not an enemy, a man then odious to the body of the colonists, whose good-will must have been so im-

portant to Mr. Austin's comfort, — after declaring his conviction of the perfect innocence and extraordinary merit of the persecuted missionary, proceeds to bear testimony to the moderation of the insurgents, and to the beneficent influence of Mr. Smith, in producing that moderation, in language, far warmer and bolder than that of the Petition. "I feel no hesitation in declaring," says he, "from the intimate knowledge which my most anxious inquiries have obtained, that in the late scourge which the hand of an all-wise Creator has inflicted on this ill-fated country, nothing but those religious impressions which, under Providence, Mr. Smith has been instrumental in fixing, — nothing but those principles of the Gospel of Peace, which he had been proclaiming, could have prevented a dreadful effusion of blood here, and saved the lives of those very persons who are now, I shudder to write it, seeking his life."

And here I beg the House to weigh this testimony. It is not only valuable from the integrity, impartiality, and understanding of the witness, but from his opportunities of acquiring that intimate knowledge of facts on which he rests his opinion. He was a member of the Secret Commission of Inquiry established on this occasion, which was armed with all the authority of government, and which received much evidence relating to this insurrection not produced on the trial of Mr. Smith.

This circumstance immediately brings me to the consideration of the hearsay evidence illegally received against Mr. Smith. I do not merely or chiefly object to it on grounds purely technical, or as being inadmissible by the law of England. I abstain from taking any part in the discussions of lawyers or philosophers, with respect to the wisdom of our rules of evidence; though I think that there is more to be said for them than the ingenious objectors are aware of. What I complain of is, the admission of hearsay, of the vaguest sort, under circumstances where such an admission

was utterly abominable. In what I am about to say, I shall not quote from the Society's edition of the Trial, but from that which is officially before the House: so that I may lay aside all that has been said on the superior authority of the latter. Mr. Austin, when examined in chief, stated, that though originally prepossessed against Mr. Smith, yet, in the course of numerous inquiries, he could not see any circumstances which led to a belief that Mr. Smith had been, in any degree, instrumental in the insurrection; but that, on the contrary, when he (Mr. Austin) said to the slaves, that bloodshed had not marked the progress of their insurrection, their answer was:—"It is contrary to the religion we profess" (which had been taught to them by Mr. Smith);—"we cannot give life, and therefore we will not take it." This evidence of the innocence of Mr. Smith, and of the humanity of the slaves, appears to have alarmed the impartial judge-advocate; and he proceeded, in his cross-examination, to ask Mr. Austin whether any of the negroes had ever insinuated, that their misfortunes were occasioned by the prisoner's influence over them, or by the doctrines he taught them? Mr. Austin, understanding this question to refer to what passed before the Committee, appears to have respectfully hesitated about the propriety of disclosing these proceedings; upon which, the Court, in a tone of discourtesy and displeasure, which a reputable advocate for a prisoner would not have used towards such a witness in this country, addressed the following illegal and indecent question to Mr. Austin:—"Can you take it upon yourself to swear that you do not recollect any insinuations of that sort at the Board of Evidence?" How that question came to be waived, does not appear in the official copy. It is almost certain, however, from the purport of the next question, that the Society's Report is correct in supplying this defect, and that Mr. Austin still doubted its substantial propriety, and continued to resent its insolent form. He was actually asked,

"whether he *heard*, before the Board of Evidence, any negro imputing the cause of revolt to the prisoner?" He answered, "Yes:"—and the inquiry is pursued no further. I again request the House to bear in mind, that this question and answer rest on the authority of the official copy; and I repeat, that I disdain to press the legal objection of its being hearsay evidence, and to contend, that to put such a question and receive such an answer, were acts of mere usurpation in any English tribunal.

Much higher matter arises on this part of the evidence. Fortunately for the interests of truth, we are now in possession of the testimony of the negroes before the Board of Inquiry which is adverted to in this question, and which, be it observed, was wholly unknown to the unfortunate Mr. Smith. We naturally ask, why these negroes themselves were not produced as witnesses, if they were alive; or, if they were executed, how it happened that none of the men who gave such important evidence before the Board of Inquiry were preserved to bear testimony against him before the Court-martial? Why were they content with the much weaker evidence actually produced? Why were they driven to the necessity of illegally obtaining, through Mr. Austin, what they might have obtained from his informants? The reason is plain:—they disbelieved the evidence of the negroes, who threw out the "insinuations," or "imputations." That might have been nothing; but they knew that all mankind would have rejected that pretended evidence with horror. They knew that the negroes, to whom their question adverted, had told a tale to the Board of Evidence, in comparison with which the story of Titus Oates was a model of probability, candour, and truth. One of them (Sandy) said, that Mr. Smith told him, though not a member of his congregation, nor even a Christian, "that a good thing was come for the negroes, and that if they did not seek for it now, the whites would trample upon them, and upon their sons and daughters,

to eternity."* Another (Paris) says, "that all the male whites (except the doctors and missionaries) were to be murdered, and all the females distributed among the insurgents; that one of their leaders was to be a king, another to be a governor, and Mr. Smith to be emperor†; that on Sunday, the 17th of August, Mr. Smith administered the sacrament to several leading negroes, and to Mr. Hamilton, the European overseer of the estate Le Ressouvenir; that he swore the former on the Bible to do him no harm when they had conquered the country, and afterwards blessed their revolt, saying, "Go; as you have begun in Christ, you must end in Christ!"‡ All this the prosecutor concealed, with the knowledge of the Court. While they asked, whether Mr. Austin had heard statements made against Mr. Smith before the Board of Evidence, they studiously concealed all those incredible, monstrous, impossible fictions which accompanied these statements, and which would have annihilated their credit. Whether the question was intended to discredit Mr. Austin, or to prejudice Mr. Smith, it was, in either case, an atrocious attempt to take advantage of the stories told by the negroes, and at the same time to screen them from scrutiny, contradiction, disbelief, and abhorrence. If these men could have been believed, would they not have been produced on the trial? Paris, indeed, the author of this horrible fabrication, charges Bristol, Manuel, and Azor, three of the witnesses afterwards examined on the trial of Mr. Smith, with having been parties to the dire and execrable oath: not one of them alludes to such horrors; all virtually contradict them. Yet this Court-martial sought to injure Mr. Austin, or to contribute to the destruction of Mr. Smith, by receiving as evidence a general statement of what was said by those whom they could not believe, whom they durst not

* Demerara Papers, No. II. p. 26. † Ibid. p. 30.
‡ Ibid. p. 41.

produce, and who were contradicted by their own principal witnesses, — who, if their whole tale had been brought into view, would have been driven out of any court with shouts of execration.

I cannot yet leave this part of the subject. It deeply affects the character of the whole transaction. It shows the general terror, which was so powerful as to stimulate the slaves to the invention of such monstrous falsehoods. It throws light on that species of skill with which the prosecutors kept back the absolutely incredible witnesses, and brought forward only those who were discreet enough to tell a more plausible story, and on the effect which the circulation of the fictions, which were too absurd to be avowed, must have had in exciting the body of the colonists to the most relentless animosity against the unfortunate Mr. Smith. It teaches us to view with the utmost jealousy the more guarded testimony actually produced against him, which could not be exempt from the influence of the same fears and prejudices. It authorises me to lay a much more than ordinary stress on every defect of the evidence; because, in such circumstances, I am warranted in affirming that whatever was not proved, could not have been proved.

But in answer to all this, we are asked by the Honourable Gentleman, "Would President Wray have been a party to the admission of improper evidence?" Now, Sir, I wish to say nothing disrespectful of Mr. Wray; and the rather, because he is well spoken of by those whose good opinion is to be respected. We do not know that he may not have dissented from every act of this Court-martial. I should heartily rejoice to hear that it was so: but I am aware we can never know whether he did or not. The Honourable Gentleman unwarily asks, — "Would not Mr. Wray have publicly protested against illegal questions?" Does he not know, or has he forgotten, that every member of a court-martial is bound by oath not to disclose its proceedings? But really, Sir, I

must say that the character of no man can avail against facts:—"Tolle e causâ nomen Catonis." Let character protect accused men, when there is any defect in the evidence of their guilt: let it continue to yield to them that protection which Mr. Smith, in his hour of danger, did not receive from the tenor of his blameless and virtuous life: let it be used for mercy, not for severity. Let it never be allowed to aid a prosecutor, or to strengthen the case of an accuser. Let it be a shield to cover the accused: but let it never be converted into a dagger, by which he is to be stabbed to the heart. Above all, let it not be used to destroy his good name, after his life has been taken away.

The question is, as has been stated by the Honourable Gentleman, whether, on a review of the whole evidence, Mr. Smith can be pronounced to be guilty of the crimes charged against him, and for which he was condemned to death. That is the fact on which issue is to be joined. In trying it, I can lay my hand on my heart, and solemnly declare, upon my honour, or whatever more sacred sanction there be, that I believe him to have been an innocent and virtuous man,—illegally tried, unjustly condemned to death, and treated in a manner which would be disgraceful to a civilised government in the case of the worst criminal. I heartily rejoice that the Honourable Gentleman has been manly enough directly to dissent from my Honourable Friend's motion,—that the case is to be fairly brought to a decision,—and that no attempt is to be made to evade a determination, by moving the previous question. That, of all modes of proceeding, I should most lament. Some may think Mr. Smith guilty; others will agree with me in thinking him innocent: but no one can doubt that it would be dishonourable to the Grand Jury of the Empire, to declare that they will not decide, when a grave case is brought before them, whether a British subject has been lawfully or unlawfully condomned to death. We still observe that usage of our

forefathers, according to which the House of Commons, at the commencement of every session of Parliament, nominates a grand committee of justice; and if, in ordinary cases, other modes of proceeding have been substituted in practice for this ancient institution, we may at least respect it as a remembrancer of our duty, which points out one of the chief objects of the original establishment. All evasion is here refusal; and a denial of justice in Parliament, more especially in an inquest for blood, would be a fatal and irreparable breach in the English constitution.

The question before us resolves itself into several questions, relating to every branch and stage of the proceedings against Mr. Smith:—Whether the Court-martial had jurisdiction? whether the evidence against him was warranted by law, or sufficient in fact? whether the sentence was just, or the punishment legal? These questions are so extensive and important, that I cannot help wishing they had not been still further enlarged and embroiled by the introduction of matter wholly impertinent to any of them.

To what purpose has the Honourable Gentleman so often told us that Mr. Smith was an "enthusiast?" It would have been well if he had given us some explanation of the sense in which he uses so vague a term. If he meant by it to denote the prevalence of those disorderly passions, which, whatever be their source or their object, always disturb the understanding, and often pervert the moral sentiments, we have clear proof that it did not exist in Mr. Smith, so far as to produce the first of these unfortunate effects: and it is begging the whole question in dispute, to assert that it manifested itself in him by the second and still more fatal symptom. There is, indeed, another temper of mind called enthusiasm, which, though rejecting the authority neither of reason nor of virtue, triumphs over all the vulgar infirmities of men, contemns their ordinary pursuits, braves danger, and despises obloquy,—which is the parent of heroic acts and apo-

stolical sacrifices, — which devotes the ease, the pleasure, the interest, the ambition, the life of the generous enthusiast, to the service of his fellow-men. If Mr. Smith had not been supported by an ardent zeal for the cause of God and man, he would have been ill qualified for a task so surrounded by disgust, by calumny, by peril, as that of attempting to pour instruction into the minds of unhappy slaves. Much of this excellent quality was doubtless necessary for so long enduring the climate and the government of Demerara.

I am sorry that the Honourable Gentleman should have deigned to notice any part of the impertinent absurdities with which the Court have suffered their minutes to be encumbered, and which have no more to do with this insurrection than with the Popish Plot. What is it to us that a misunderstanding occurred, three or four years ago, between Mr. Smith and a person called Captain or Doctor Macturk, whom he had the misfortune to have for a neighbour, — a misunderstanding long antecedent to this revolt, and utterly unconnected with any part of it? It was inadmissible evidence; and if it had been otherwise, it proved nothing but the character of the witness, — of the generous Macturk; who, having had a trifling difference with his neighbour five years ago, called it to mind at the moment when that neighbour's life was in danger. Such is the chivalrous magnanimity of Dr. Macturk! If I were infected by classical superstition, I should forbid such a man to embark in the same vessel with me. I leave him to those from whom, if we may trust his name or his manners, he may be descended; and I cannot help thinking that he deserves, as well as they, to be excluded from the territory of Christians.

I very sincerely regret, Sir, that the Honourable Gentleman, by quotations from Mr. Smith's manuscript journal, should appear to give any countenance or sanction to the detestable violation of all law, humanity,

and decency, by which that manuscript was produced in evidence against the writer. I am sure that, when his official zeal has somewhat subsided, he will himself regret that he appealed to such a document. That which is unlawfully obtained cannot be fairly quoted. The production of a paper in evidence, containing general reflections and reasonings, or narratives of fact, not relating to any design, or composed to compass any end, is precisely the iniquity perpetrated by Jeffreys, in the case of Sidney, which has since been reprobated by all lawyers, and which has been solemnly condemned by the legislature itself. I deny, without fear of contradiction from any one of the learned lawyers who differ from me in this debate, that such a paper has been received in evidence, since that abominable trial, by any body of men calling themselves a court of justice. Is there a single line in the extracts produced which could have been written to forward the insurrection? I defy any man to point it out. Could it be admissible evidence on any other ground? I defy any lawyer to maintain it: for, if it were to be said that it manifests opinions and feelings favourable to negro insurrection, and which rendered probable the participation of Mr. Smith in this revolt (having first denied the fact), I should point to the statute reversing the attainder of Sidney, against whom the like evidence was produced precisely under the same pretence. Nothing can be more decisive on this point than the authority of a great judge and an excellent writer. "Had the papers found in Sidney's closets," says Mr. Justice Foster, "been plainly relative to the other treasonable practices charged in the indictment, they might have been read in evidence against him, though not published. The papers found on Lord Preston were written in prosecution of certain determined purposes which were treasonable, and then (namely, at the time of writing) in the contemplation of the offenders." But the iniquity in the case of Sidney vanishes,

in comparison with that of this trial. Sidney's manuscript was intended for publication; it could not be said that its tendency, when published, was not to excite dispositions hostile to the bad government which then existed; it was perhaps in strictness indictable as a seditious libel. The journal of Mr. Smith was meant for no human eyes: it was seen by none; only extracts of it had been sent to his employers in England,—as inoffensive, doubtless, as their excellent instructions required. In the midst of conjugal affection and confidence, it was withheld even from his wife. It consisted of his communings with his own mind, or the breathings of his thoughts towards his Creator; it was neither addressed nor communicated to any created being. That such a journal should have been dragged from its sacred secrecy is an atrocity—I repeat it—to which I know no parallel in the annals of any court that has professed to observe a semblance of justice.

I dwell on this circumstance, because the Honourable Gentleman, by his quotation, has compelled me to do so, and because the admission of this evidence shows the temper of the Court. For I think the extracts produced are, in truth, favourable to Mr. Smith; and I am entitled to presume that the whole journal, withheld as it is from us,—withheld from the Colonial Office, though circulated through the Court to excite West Indian prejudices against Mr. Smith,—would, in the eyes of impartial men, have been still more decisively advantageous to his cause. How, indeed, can I think otherwise? What, in the opinion of the judge-advocate, is the capital crime of this journal? It is, that in it the prisoner "avows he feels an aversion to slavery!!" He was so depraved, as to be an enemy of that admirable institution! He was so lost to all sense of morality, as to be dissatisfied with the perpetual and unlimited subjection of millions of reasonable creatures to the will, and caprice, and passions of other men! This opinion, it is true, Mr. Smith

shared with the King, Parliament, and people of Great Britain,—with all wise and good men, in all ages and nations: still, it is stated by the judge-advocate as if it were some immoral paradox, which it required the utmost effrontery to "avow." One of the passages produced in evidence, and therefore thought either to be criminal in itself, or a proof of criminal intention, well deserves attention: —"While writing this, my very heart flutters at the almost incessant cracking of the whip!" As the date of this part of the journal is the 22d of March, 1819, more than four years before the insurrection, it cannot be so distorted by human ingenuity as to be brought to bear on the specific charges which the Court had to try. What, therefore, is the purpose for which it is produced? They overheard, as it were, a man secretly complaining to himself of the agitation produced in his bodily frame by the horrible noise of a whip constantly resounding on the torn and bloody backs of his fellow-creatures. As he does not dare to utter them to any other, they must have been unaffected, undesigning, almost involuntary ejaculations of feeling. The discovery of them might have recalled unhardened men from practices of which they had thus casually perceived the impression upon an uncorrupted heart. It could hardly have been supposed that the most practised negro-driver could have blamed them more severely than by calling them effusions of weak and womanish feelings. But it seemed good to the prosecutors of Mr. Smith to view these complaints in another light. They regard "the fluttering of his heart at the incessant cracking of the whip," as an overt act of the treason of "abhorring slavery." They treat natural compassion, and even its involuntary effects on the bodily frame, as an offence. Such is the system of their society, that they consider every man who feels pity for sufferings, or indignation against cruelty, as their irreconcilable enemy. Nay, they receive a secret expression of

those feelings as evidence against a man on trial for his life, in what they call a court of justice. My Right Honourable Friend* has, on a former occasion, happily characterised the resistance, which has not been obscurely threatened, against all measures for mitigating the evils of slavery, as a "rebellion for the whip." In the present instance we see how sacred that instrument is held, — how the right to use it is prized as one of the dearest of privileges, — and in what manner the most private murmur against its severest inflictions is brought forward as a proof, that he who breathes it must be prepared to plunge into violence and blood.

In the same spirit, conversations are given in evidence, long before the revolt, wholly unconnected with it, and held with ignorant men, who might easily misunderstand or misremember them; in which Mr. Smith is supposed to have expressed a general and speculative opinion, that slavery never could be mitigated, and that it must die a violent death. These opinions the Honourable Gentleman calls "fanatical." Does he think Dr. Johnson a fanatic, or a sectary, or a methodist, or an enemy of established authority? But he must know from the most amusing of books, that Johnson, when on a visit to Oxford, perhaps when enjoying lettered hospitality at the table of the Master of University College†, proposed as a toast, "Success to the first revolt of negroes in the West Indies!" He neither meant to make a jest of such matters, nor to express a deliberate wish for an event so full of horror, but merely to express in the strongest manner his honest hatred of slavery. For no man ever more detested actual oppression; though his Tory prejudices hindered him from seeing the value of those liberal institutions which alone secure society from oppression. This justice will be universally done to

* Mr. Canning. — Ed.

† Dr. Wetherell, father of the Solicitor-General.

the aged moralist, who knew slavery only as a distant evil, — whose ears were never wounded by the cracking of the whip. Yet all the casual expressions of the unfortunate Mr. Smith, in the midst of dispute, or when he was fresh from the sight of suffering, rise up against him as legal proof of settled purposes and deliberate designs.

On the legality of the trial, Sir, the impregnable speech of my Learned Friend * has left me little if any thing to say. The only principle on which the law of England tolerates what is called "martial law," is necessity; its introduction can be justified only by necessity; its continuance requires precisely the same justification of necessity; and if it survives the necessity, in which alone it rests, for a single minute, it becomes instantly a mere exercise of lawless violence. When foreign invasion or civil war renders it impossible for courts of law to sit, or to enforce the execution of their judgments, it becomes necessary to find some rude substitute for them, and to employ for that purpose the military, which is the only remaining force in the community. While the laws are silenced by the noise of arms, the rulers of the armed force must punish, as equitably as they can, those crimes which threaten their own safety and that of society; but no longer; — every moment beyond is usurpation. As soon as the laws can act, every other mode of punishing supposed crimes is itself an enormous crime. If argument be not enough on this subject, — if, indeed, the mere statement be not the evidence of its own truth, I appeal to the highest and most venerable authority known to our law. "Martial law," says Sir Matthew Hale, "is not a law, but something indulged rather than allowed, as a law. The necessity of government, order, and discipline in an army, is that only which can give it countenance. 'Necessitas enim, quod cogit, defendit.' Secondly, this indulged

* Mr. Brougham. — Ed.

law is only to extend to members of the army, or to those of the opposite army, and never may be so much indulged as to be exercised or executed upon others. Thirdly, the exercise of martial law may not be permitted in time of peace, when the king's courts are" (or may be) "open." * The illustrious Judge on this occasion appeals to the Petition of Right, which, fifty years before, had declared all proceedings by martial law, in time of peace, to be illegal. He carries the principle back to the cradle of English liberty, and quotes the famous reversal of the attainder of the Earl of Kent, in the first year of Edward III., as decisive of the principle, that nothing but the necessity arising from the absolute interruption of civil judicature by arms, can warrant the exercise of what is called martial law. Wherever, and whenever, they are so interrupted, and as long as the interruption continues, necessity justifies it.

No other doctrine has ever been maintained in this country, since the solemn Parliamentary condemnation of the usurpations of Charles I., which he was himself compelled to sanction in the Petition of Right. In none of the revolutions or rebellions which have since occurred has martial law been exercised, however much, in some of them, the necessity might seem to exist. Even in those most deplorable of all commotions, which tore Ireland in pieces, in the last years of the eighteenth century, — in the midst of ferocious revolt and cruel punishment, — at the very moment of legalising these martial jurisdictions in 1799, the very Irish statute, which was passed for that purpose, did homage to the ancient and fundamental principles of the law, in the very act of departing from them. The Irish statute 39 Geo. III. c. 2., after reciting "that martial law had been successfully exercised to the restoration of peace, so far as to permit the course of the common law partially to take place, but that the re-

* History of the Common Law, chap. xi.

bellion continued to rage in considerable parts of the kingdom, whereby it has become necessary for Parliament to interpose," goes on to enable the Lord Lieutenant "to punish rebels by courts-martial." This statute is the most positive declaration, that where the common law can be exercised in some parts of the country, martial law cannot be established in others, though rebellion actually prevails in those others, without an extraordinary interposition of the supreme legislative authority itself.

I have already quoted from Sir Matthew Hale his position respecting the two-fold operation of martial law:—as it affects the army of the power which exercises it, and as it acts against the army of the enemy. That great Judge, happily unused to standing armies, and reasonably prejudiced against military jurisdiction, does not pursue his distinction through all its consequences, and assigns a ground for the whole, which will support only one of its parts. "The necessity of order and discipline in an army," is, according to him, the reason why the law tolerates this departure from its most valuable rules; but this necessity only justifies the exercise of martial law over the army of our own state. One part of it has since been annually taken out of the common law, and provided for by the Mutiny Act, which subjects the military offences of soldiers only to punishment by military courts, even in time of peace. Hence we may now be said annually to legalise military law; which, however, differs essentially from martial law, in being confined to offences against military discipline, and in not extending to any persons but those who are members of the army.

Martial law exercised against enemies or rebels, cannot depend on the same principle; for it is certainly not intended to enforce or preserve discipline among them. It seems to me to be only a more regular and convenient mode of exercising the right to kill in war,—a right originating in self-defence, and

limited to those cases where such killing is necessary, as the means of insuring that end. Martial law put in force against rebels, can only be excused as a mode of more deliberately and equitably selecting the persons from whom quarter ought to be withheld, in a case where all have forfeited their claim to it. It is nothing more than a sort of better regulated decimation, founded upon choice, instead of chance, in order to provide for the safety of the conquerors, without the horrors of undistinguished slaughter: it is justifiable only where it is an act of mercy. Thus the matter stands by the law of nations. But by the law of England, it cannot be exercised except where the jurisdiction of courts of justice is interrupted by violence. Did this necessity exist at Demerara on the 13th of October, 1823? Was it on that day impossible for the courts of law to try offences? It is clear that, if the case be tried by the law of England, and unless an affirmative answer can be given to these questions of fact, the Court-martial had no legal power to try Mr. Smith.

Now, Sir, I must in the first place remark, that General Murray has himself expressly waived the plea of necessity, and takes merit to himself for having brought Mr. Smith to trial before a court-martial, as the most probable mode of securing impartial justice,—a statement which would be clearly an attempt to obtain commendation under false pretences, if he had no choice, and was compelled by absolute necessity to recur to martial law:—"In bringing *this man* (Mr. Smith) to trial, under present circumstances, I have endeavoured to secure to him the advantage of the most cool and dispassionate consideration, by framing a court entirely of officers of the army who, having no interests in the country, are without the bias of public opinion, which is at present so violent against Mr. Smith." * This paragraph I con-

* General Murray (Governor of Demerara) to Earl Bathurst, 21st of October, 1823.

ceive to be an admission, and almost a boast, that the trial by court-martial was a matter of choice, and therefore not of necessity; and I shall at present say nothing more on it, than earnestly to beseech the House to remark the evidence which it affords of the temper of the colonists, and to bear in mind the inevitable influence of that furious temper on the prosecutors who conducted the accusation,—on the witnesses who supported it by their testimony,—on the officers of the Court-martial, who could have no other associates or friends but among these prejudiced and exasperated colonists. With what suspicion and jealousy ought we not to regard such proceedings? What deductions ought to be made from the evidence? How little can we trust the fairness of the prosecutors, or the impartiality of the judges? What hope of acquittal could the most innocent prisoner entertain? Such, says in substance Governor Murray, was the rage of the inhabitants of Demerara against the unfortunate Mr. Smith, that his only chance of impartial trial required him to be deprived of all the safeguards which are the birthright of British subjects, and to be tried by a judicature which the laws and feelings of his country alike abhor.

But the admission of Governor Murray, though conclusive against him, is not necessary to the argument; for my Learned Friend has already demonstrated that, in fact, there was no necessity for a court-martial on the 13th of October. From the 31st of August it appears, by General Murray's letters, that no impediment existed to the ordinary course of law; "no negroes were in arms; no war or battle's sound was heard" through the colony. There remained, indeed, a few runaways in the forests behind; but we know, from the best authorities*, that the forests were never free from bodies of these wretched and desperate men in those unhappy settlements in

* See Stedman, Bolingbroke, &c.

Guiana,—where, under every government, rebellion has as uniformly sprung from cruelty as pestilence has arisen from the marshes. Before the 4th of September, even the detachment which pursued the deserters into the forest had returned into the colony. For six weeks, then, before the Court-martial was assembled, and for twelve weeks before that Court pronounced sentence of death on Mr. Smith, all hostility had ceased, no necessity for their existence can be pretended, and every act which they did was an open and deliberate defiance of the law of England.

Where, then, are we to look for any colour of law in these proceedings? Do they derive it from the Dutch law? I have diligently examined the Roman law, which is the foundation of that system, and the writings of those most eminent jurists who have contributed so much to the reputation of Holland:—I can find in them no trace of any such principle as martial law. Military law, indeed, is clearly defined; and provision is made for the punishment by military judges of the purely military offences of soldiers. But to any power of extending military jurisdiction over those who are not soldiers, there is not an allusion. I will not furnish a subject for the pleasantries of my Right Honourable Friend, or tempt him into a repetition of his former innumerable blunders, by naming the greatest of these jurists*; lest his date, his occupation, and his rank might be again mistaken; and the venerable President of the Supreme Court of Holland might be once more called a "clerk of the States-General." "Persecutio militis," says that learned person, "pertinet ad judicem militarem quando delictum sit militare, et ad judicem communem quando delictum sit commune." Far from supposing it to be possible, that those who were not soldiers could ever be triable by military courts for crimes not mili-

* Bynkershoek,—of whose professional rank Mr. Canning had professed ignorance.—Ed.

tary, he expressly declares the law and practice of the United Provinces to be, that even soldiers are amenable, for ordinary offences against society, to the court of Holland and Friesland, of which he was long the chief. The law of Holland, therefore, does not justify this trial by martial law.

Nothing remains but some law of the colony itself. Where is it? It is not alleged or alluded to in any part of this trial. We have heard nothing of it this evening. So unwilling was I to believe that this Court-martial would dare to act without some pretence of legal authority, that I suspected an authority for martial law would be dug out of some dark corner of a Guiana ordinance. I knew it was neither in the law of England, nor in that of Holland; and I now believe that it does not exist even in the law of Demerara. The silence of those who are interested in producing it, is not my only reason for this belief. I happen to have seen the instructions of the States-General to their Governor of Demerara, in November, 1792.—probably the last ever issued to such an officer by that illustrious and memorable assembly. They speak at large of councils of war, both for consultation and for judicature. They authorise these councils to try the military offences of soldiers; and therefore, by an inference which is stronger than silence, authorise us to conclude that the governor had no power to subject those who were not soldiers to their authority.

The result, then, is, that the law of Holland does not allow what is called "martial law" in any case; and that the law of England does not allow it without a necessity, which did not exist in the case of Mr. Smith. If, then, martial law is not to be justified by the law of England, or by the law of Holland, or by the law of Demerara, what is there to hinder me from affirming, that the members of this pretended court had no more right to try Mr. Smith than any other fifteen men on the face of the earth, — that their acts were nullities, and their meeting a con-

spiracy, — that their sentence was a direction to commit a crime, — that, if it had been obeyed, it would not have been an execution, but a murder, — and that they, and all other parties engaged in it, must have answered for it with their lives.

I hope, Sir, no man will, in this House, undervalue that part of the case which relates to the illegality of the trial. I should be sorry to hear any man represent it as an inferior question, whether we are to be governed by law or by will. Every breach of law, under pretence of attaining what is called "substantial justice," is a step towards reducing society under the authority of arbitrary caprice and lawless force. As in many other cases of evil-doing, it is not the immediate effect, but the example (which is the larger part of the consequences of every act), which is most mischievous. If we listen to any language of this sort, we shall do our utmost to encourage governors of colonies to discover some specious pretexts of present convenience for relieving themselves altogether, and as often as they wish, from the restraints of law. In spite of every legal check, colonial administrators are already daring enough, from the physical impediments which render it nearly impossible to reduce their responsibility to practice. If we encourage them to proclaim martial law without necessity, we shall take away all limitations from their power in this department; for pretences of convenience can seldom be wanting in a state of society which presents any temptation to abuse of power.

But I am aware, Sir, that I have undertaken to maintain the innocence of Mr. Smith, as well as to show the unlawfulness and nullity of the proceedings against him. I am relieved from the necessity of entering at large into the facts of his conduct, by the admirable and irresistible speech of my Learned Friend, who has already demonstrated the virtue and innocence of this unfortunate Gentleman, who died the martyr of his zeal for the diffusion of religion,

humanity, and civilisation, among the slaves of Demerara. The Honourable Gentleman charges him with a want of discretion. Perhaps it may be so. That useful quality, which Swift somewhere calls "an alderman-like virtue," is deservedly much in esteem among those who are "wise in their generation," and to whom the prosperity of this world belongs; but it is rarely the attribute of heroes and of martyrs, — of those who voluntarily suffer for faith or freedom, — who perish on the scaffold in attestation of their principles; — it does not animate men to encounter that honourable death which the colonists of Demerara were so eager to bestow on Mr. Smith.

On the question of actual innocence, the Honourable Gentleman has either bewildered himself, or found it necessary to attempt to bewilder his audience, by involving the case in a labyrinth of words, from which I shall be able to extricate it by a very few and short remarks. The question is, not whether Mr. Smith was wanting in the highest vigilance and foresight, but whether he was guilty of certain crimes laid to his charge? The first charge is, that he promoted discontent and dissatisfaction among the slaves, "intending thereby to excite revolt." The Court-martial found him guilty of the fact, but not of the intention: thereby, in common sense and justice, acquitting him. The second charge is, that, on the 17th of August, he consulted with Quamina concerning the intended rebellion; and, on the 19th and 20th, during its progress, he aided and assisted it by consulting and corresponding with Quamina, an insurgent. The Court-martial found him guilty of the acts charged on the 17th and 20th, but acquitted him of that charged on the 19th. But this charge is abandoned by the Honourable Gentleman, and, as far as I can learn, will not be supported by any one likely to take a part in this debate. On the fourth charge, which, in substance, is, that Mr. Smith did not endeavour to make Quamina prisoner on the 20th of August, — the Court-martial have

found him guilty. But I will not waste the time of the House, by throwing away a single word upon an accusation which I am persuaded no man here will so ill consult his own reputation as to vindicate.

The third charge, therefore, is the only one which requires a moment's discussion. It imputes to Mr. Smith, that he previously knew of the intended revolt, and did not communicate his knowledge to the proper authorities. It depends entirely on the same evidence which was produced in support of the second. It is an offence analogous to what, in our law, is denominated "misprision" of treason; and it bears the same relation to an intended revolt of slaves against their owners, which misprision in England bears to high treason. To support this charge, there should be sufficient evidence of such a concealment as would have amounted to misprision, if a revolt of slaves against their private masters had been high treason. Now, it had been positively laid down by all the judges of England, that "one who is told only, in general, that there will be a rising, without persons or particulars, is not bound to disclose."* Concealment of the avowal of an intention is not misprision, because such an avowal is not an overt act of high treason. Misprision of treason is a concealment of an overt act of treason. A consultation about the means of revolt is undoubtedly an overt act, because it is one of the ordinary and necessary means of accomplishing the object: but it is perfectly otherwise with a conversation, even though in the course of it improper declarations of a general nature should be made. I need not quote Hale or Foster in support of positions which I believe will not be controverted. Contenting myself with having laid them down, I proceed to apply them to the evidence on this charge.

I think myself entitled to lay aside — and, indeed, in that I only follow the example of the Honourable

* Kelynge, p. 22.

Gentleman — the testimony of the coachman and the groom, which, if understood in one sense, is incredible, and in the other is insignificant. It evidently amounts to no more than a remark by Mr. Smith, after the insurrection broke out, that he had long foreseen danger. The concealment of such a general apprehension, if he had concealed it, was no crime; for it would be indeed most inconvenient to magistrates and rulers, and most destructive of the quiet of society, if men were bound to communicate to the public authorities every alarm that might seize the minds of any of them.

But he did not conceal that general apprehension: on the contrary, he did much more than strict legal duty required. Divide the facts into two parts, those which preceded Sunday the 17th of August, and those which occurred then and afterwards. I fix on this day, because it will not be said, by any one whose arguments I should be at the trouble of answering, that there is any evidence of the existence of a specific plan of revolt previous to the 17th of August. What did not exist could neither be concealed nor disclosed. But the conduct of Mr. Smith respecting the general apprehensions which he entertained before that day is evidence of great importance as to what would have been his probable conduct, if any specific plan had afterwards been communicated to him. If he made every effort to disclose a general apprehension, it is not likely that he should have deliberately concealed a specific plan. It is in that light that I desire the attention of the House to it.

It is quite clear that considerable agitation had prevailed among the negroes from the arrival of Lord Bathurst's Dispatch in the beginning of July. They had heard from seamen arrived from England, and by servants in the Governor's house, and by the angry conversations of their masters, that some projects for improving their condition had been favourably received in this country. They naturally entertained sanguine and exaggerated hopes of the extent of the

reformation. The delay in making the Instructions known naturally led the slaves to greater exaggerations of the plan, and gradually filled their minds with angry suspicions that it was concealed on account of the extensive benefits it was to confer. Liberty seemed to be offered from England, and pushed aside by their masters and rulers at Demerara. This irritation could not escape the observation of Mr. Smith, and instead of concealing it, he early imparted it to a neighbouring manager and attorney. How comes the Honourable Gentleman to have entirely omitted the evidence of Mr. Stewart? * It appears from his testimony, that Mr. Smith, several weeks before the revolt, communicated to him (Stewart), the manager of plantation Success, that alarming rumours about the Instructions prevailed among the negroes. It appears that Mr. Smith went publicly with his friend Mr. Elliot, another missionary, to Mr. Stewart, to repeat the information at a subsequent period; and that, in consequence, Mr. Stewart, with Mr. Cort, the attorney of plantation Success, went on the 8th of August to Mr. Smith, who confirmed his previous statements, — said that Quamina and other negroes had asked whether their freedom had come out, — and mentioned that he had some thoughts of disabusing them, by telling them from the pulpit that their expectations of freedom were erroneous. Mr. Cort dissuaded him from taking so much upon himself. Is it not evident from this testimony, that Mr. Smith had the reverse of an intention to conceal the dangerous agitation on or before the 8th of August? It is certain that all evidence of his privity or participation before that day must be false. He then told all that he knew, and offered to do much more than he was bound to do. His disclosures were of a nature to defeat a project of revolt, or to prevent it from being formed; — he enabled Cort or Stewart to put the Government on their guard. He told no

* Trial, &c., p. 47.

particulars, because he knew none; but he put it into the power of others to discover them if they existed. He made these discoveries on the 8th of August: what could have changed his previous system of conduct in the remaining ten days? Nay, more, he put it out of his own power to change his conduct effectually: it no longer depended on himself whether what he knew should not be so perfectly made known to the Government as to render all subsequent concealment ineffectual. He could not even know on the 17th whether his conversations with Stewart and Cort had not been communicated to the Governor, and whether measures had not been taken, which had either ascertained that the agitation no longer generally prevailed, or had led to such precautions as could not fail to end in the destruction of those who should deliberately and criminally conceal the designs of the insurgents. The crime of misprision consists in a design to deceive, — which, after such a disclosure, it was impossible to harbour. If this had related to the communication of a formed plan, it might be said, that the disclosure to private persons was not sufficient, and that he was bound to make it to the higher authorities. I believe Mr. Cort was a member of the Court of Policy. [Here Mr. Gladstone intimated by a shake of his head that Mr. Cort was not.] I yield to the local knowledge of my Honourable Friend — if I may venture to call him so in our present belligerent relations. If Mr. Cort be not a member of the Court of Policy, he must have had access to its members: — he stated to Mr. Smith the reason of their delay to promulgate the Instructions; and in a communication which related merely to general agitation, Mr. Smith could not have chosen two persons more likely to be on the alert about a revolt of slaves than the manager and attorney of a neighbouring plantation. Stewart and Cort were also officers of militia.

A very extraordinary part of this case appears in the Demerara papers (No. II.) to which I have already

adverted. Hamilton, the manager of plantation Ressouvenir, had, it seems, a negro mistress, from whom few of his secrets were hid. This lady had the singularly inappropriate name of Susannah. I am now told that she had been the wife of Jack, one of the leaders of the revolt — I have no wish to penetrate into his domestic misfortunes; — at all events, Jack kept up a constant and confidential intercourse with his former friend, even in the elevated station which she had attained. She told him (if we may believe both him and her) of all Hamilton's conversations. By the account of Paris, it seems that Hamilton had instructed them to destroy the bridges. Susannah said that he intreated them to delay the revolt for two weeks, till he could remove his things. They told Hamilton not only of the intention to rise three weeks before, but of the particular time. On Monday morning Hamilton told her, that it was useless for him to manumit her and her children, as she wished, for that all would soon be free; and that the Governor kept back the Instructions because he was himself a slave-owner. Paris and Jack agree in laying to Hamilton's charge the deepest participation in their criminal designs. If this evidence was believed, why was not Hamilton brought to trial rather than Smith? If it was disbelieved, as the far greater part of it must have been, why was it concealed from Smith that such wicked falsehoods had been contrived against another man, — a circumstance which so deeply affects the credit of all the negro accomplices, who swore to save their own lives? If, as I am inclined to believe, some communications were made through Susannah, how hard was the fate of Mr. Smith, who suffers for not promulgating some general notions of danger, which, from this instance, must have entered through many channels into the minds of the greater number of whites. But, up to the 17th of August, it appears that Mr. Smith did not content himself with bare disclosure, but proffered his services to allay discontent,

and showed more solicitude than any other person known to us, to preserve the peace of the community.

The question now presents itself, which I allow constitutes the vital part of this case, — Whether any communication was made to Mr. Smith on the evening of Sunday the 17th, of which the concealment from his superiors was equivalent to what we call misprision of treason? No man can conscientiously vote against the motion who does not consider the affirmative as proved. I do not say that this would be of itself sufficient to negative the motion; I only say, that it is indispensably necessary. There would still remain behind the illegality of the jurisdiction, as well as the injustice of the punishment. And on this latter most important part of the case I must here remark, that it would not be sufficient to tell us, that the Roman and Dutch law ranked misprision as a species of treason, and made it punishable by death. It must be shown, not only that the Court were by this law entitled to condemn Mr. Smith to death, but that they were also bound to pronounce such a sentence. For if they had any discretion, it will not be said that an English court-martial ought not to regulate the exercise of it by the more humane and reasonable principles of their own law, which does not treat misprision as a capital offence.

. . . I am sorry to see that the Honourable Agent for Demerara * has quitted his usual place, and has taken a very important position. I feel no ill-will; but I dread the sight of him when pouring poison into the ears of the powerful. He is but too formidable in his ordinary station, at the head of those troops whom his magical wand brings into battle in such numbers as no eloquence can match, and no influence but his own can command. . . . .

* Mr. William Holmes, who was also the Treasury "whipper-in," was for the moment seated next, and whispering to, Mr. Canning — Ed.

Let us now consider the evidence of what passed on the 17th of August. And here, once more, let me conjure the House to consider the condition of the witnesses who gave that evidence. They were accomplices in the revolt, who had no chance of life but what acceptable testimony might afford. They knew the fierce, furious hatred, which the ruling party had vowed against Mr. Smith. They were surrounded by the skeletons of their brethren:—they could perhaps hear the lash resounding on the bloody backs of others, who were condemned to suffer a thousand lashes, and to work for life in irons under the burning sun of Guiana. They lived in a colony where such unexampled barbarities were inflicted as a mitigated punishment, and held out as acts of mercy. Such were the dreadful terrors which acted on their minds, and under the mental torture of which every syllable of their testimony was uttered. There was still another deduction to be made from their evidence:—they spoke to no palpable facts; they gave evidence only of conversation. "Words," says Mr. Justice Foster, "are transient and fleeting as the wind; frequently the effects of a sudden transport easily misunderstood, and often misreported." If he spoke thus of words used in the presence of witnesses intelligent, enlightened, and accustomed to appreciate the force and distinctions of terms, what would he have said of the evidence of negro slaves, accomplices in the crime, trembling for their lives, reporting conversations of which the whole effect might depend on the shades and gradations of words in a language very grossly known to them,—of English words, uttered in a few hurried moments, and in the presence of no other witnesses from whom they could dread an exposure of their falsehood? It may be safely affirmed, that it is difficult for imagination to conceive admissible evidence of lower credit, and more near the verge of utter rejection.

But what, after all, is the sum of the evidence?

It is, that the negroes who followed Mr. Smith from church on Sunday the 17th, spoke to him of some design which they entertained for the next day. It is not pretended that time, or place, or persons, were mentioned: — the contrary is sworn. Mr. Smith, who was accustomed for six weeks to their murmurs, and had before been successful in dissuading them from violence, contents himself with repeating the same dissuasives, — believes he has again succeeded in persuading them to remain quiet, — and abstains for twenty-four hours from any new communication of designs altogether vague and undigested, which he hoped would evaporate, as others of the same kind had done, without any serious effects. The very utmost that he seems to have apprehended was, a plan for obliging, or "driving," as they called it, their managers to join in an application to the Governor on the subject of the new law, — a kind of proceeding which had more than once occurred, both under the Dutch and English governments. It appears from the witnesses for the prosecution, that they had more than once gone to Mr. Smith before on the same subject, and that his answer was always the same; and that some of the more exasperated negroes were so dissatisfied with his exhortations to submission, that they cried out, "Mr. Smith was making them fools, — that he would not deny his own colour for the sake of black people." Quamina appears to have shown at all times a more than ordinary deference towards his pastor. He renewed these conversations on the evening of Sunday the 17th, and told Mr. Smith, who again exhorted them to patience, that two of the more violent negroes, Jack and Joseph, spoke of taking their liberty by force. I desire it to be particularly observed, that this intention, or even violent language, appears to have been attributed only to two, and that in such a manner as naturally to exclude the rest. Mr. Smith again repeated the advice which had hitherto proved efficacious. "He told them to wait, and not to be so

foolish. How do you mean that they should take it by force? You cannot do any thing with the white people, because the soldiers will be more strong than you; therefore you had better wait. You had better go and tell the people, and Christians particularly, that they had better have nothing to do with it." When Mr. Smith spoke of the resistance of the soldiers, Quamina, with an evident view to persuade Mr. Smith that nothing was intended which would induce the military to proceed to the last extremity, observed that they would drive the managers to town; which, by means of the expedient of a general "strike" or refusal to work, appears to have been the project spoken of by most of the slaves. To this observation Mr. Smith justly answered, that even if they did "drive" the managers to town, they "would not be able to go against the soldiers," who would very properly resist such tumultuary and dangerous movements. Be it again observed, that Bristol, the chief witness for the prosecution, clearly distinguishes this plan from that of Jack and Joseph, "who intended to fight with the white people." I do not undertake to determine whether the more desperate measure was at that time confined to these two men: it is sufficient for me that such was the representation made to Mr. Smith. Whoever fairly compares the evidence of Bristol with that of Seaton will, I think, find the general result to be such as I have now stated. It is true, that there are contradictions between them, which, in the case of witnesses of another caste, might be considered as altogether subversive of their credit. But I make allowance for their fears, — for their confusion, — for their habitual inaccuracy, — for their ignorance of the language, — for their own incorrectness, if they gave evidence in English, — for that of the interpreters, if they employed any other language. In return, I expect that no fair opponent will rely on minute circumstances, — that he will also allow the benefit of all chances of inaccuracy to the accused, —

and that he will not rely on the manner, where a single word, mistaken or misremembered, might make the whole difference between the most earnest and the faintest dissuasive.

I do not know what other topics Mr. Smith could have used. He appeals to their prudence: "the soldiers," says he, "will overcome your vain revolt." He appeals to their sense of religion:—"as Christians you ought not to use violence." What argument remained, if both these failed? What part of human nature could he have addressed, where neither danger could deter, nor duty restrain? He spoke to their conscience and to their fears:—surely admonition could go no further. There is not the least appearance that these topics were not urged with as perfect good faith, as they must have been in those former instances where he demonstrated his sincerity by the communications which he made to Stewart and Cort. His temper of mind on this subject continued, then, to be the same on the evening of the 17th that it had been before. And, if so, how absolutely incredible it is, that he should, on that night, and on the succeeding morning, advisedly, coolly, and malignantly, form the design of hiding a treasonable plot confidentially imparted to him by the conspirators, in order to lull the vigilance of the Government, and commit himself and his countrymen to the mercy of exasperated and triumphant slaves!

I have already stated the reasons which might have induced him to believe that he had once more succeeded in dissuading the negroes from violence. Was he inexcusable in overrating his own ascendant,—in over-estimating the docility of his converts,—in relying more on the efficacy of his religious instructions than men of more experience and colder temper would deem reasonable? I entreat the House to consider whether this self-deception be improbable; for if he believed that he had been successful, and that the plan of tumult or revolt was abandoned, would it

not have been the basest and most atrocious treachery to have given such information as might have exposed the defenceless slaves to punishments of unparalleled cruelty, for offences which they had meditated, but from which he believed that he had reclaimed them? Let me for a moment again remind the House of the facts which give such weight to this consideration. He lived in a colony where, for an insurrection in which no white man was wantonly or deliberately put to death, and no property was intentionally destroyed or even damaged, I know not how many negroes perished on the gibbet, and others, — under the insolent, atrocious, detestable pretext of mercy! — suffered a thousand lashes, and were doomed to hard labour in irons for life, under the burning sun, and among the pestilential marshes of Guiana? These dreadful cruelties, miscalled punishments, did indeed occur after the 17th of August. But he, whose "heart had fluttered from the incessant cracking of the whip," must have strongly felt the horrors to which he was exposing his unhappy flock by a hasty or needless disclosure of projects excited by the impolitic delay of their rulers. Every good man must have wished to find the information unnecessary. Would not Mr. Smith have been the most unworthy of pastors, if he had not desired that such a cup might pass from him? And if he felt these benevolent desires, — if he recoiled with horror from putting these poor men into the hands of what in Demerara is called justice, there was nothing in the circumstances which might not have seemed to him to accord with his wishes. Even without the influence of warm feeling, I do not think that it would have been unreasonable for any man to believe that the negroes had fully agreed to wait. Nay, I am convinced that with Quamina Mr. Smith was successful. Quamina, I believe, used his influence to prevent the revolt; and it was not till after he was apprehended on Monday, on unjust suspicions, and

was rescued, that he took refuge among the revolters, and was at last shot by the soldiery when he was a runaway in the forest, — a fact which was accepted by the Court-martial as the sufficient, though sole, evidence of his being a ringleader in the rebellion.

The whole period during which it is necessary to account for Mr. Smith's not communicating to the Government an immature project, of which he knew no particulars, and which he might well believe to be abandoned, is a few hours in the morning of Monday; for it is proved by the evidence of Hamilton, that he was informed of the intended revolt by a Captain Simson, at one o'clock of that day, in George-Town, the seat of government, at some miles distant from the scene of action. It was then so notorious, that Hamilton never dreamt of troubling the Governor with such needless intelligence; yet this was only four or five hours later than the time when Mr. Smith was held to be bound, under pain of death, to make such a communication! The Governor himself, in his despatches, said that he had received the information, but did not believe it.* This disbelief, however, could not have been of long duration; for active measures were taken, and Mr. Stewart apprehended Quamina and his son Jack a little after three o'clock on Monday; which, considering the distance, necessarily implies that some general order of that nature had been issued by the Government at George-Town not long after noon on that day.† As all these proceedings occurred before Mr. Smith received the note from Jack of Dochfour about half an hour before the revolt, I lay that fact out of the case, as wholly immaterial. The interview of Mr. Smith with Quamina, on the 19th of August, is negatived by the finding of the Court-martial: — that on the 20th will be relied on by no man in this House, because there is not the slightest proof, nor, indeed, probability, that

* Demerara Papers, No. II. p. 1. † Ibid., p. 70.

the conversation at that interview was not perfectly innocent. Nothing, then, called for explanation but the conversation of Sunday evening, and the silence of Monday morning, which I think I have satisfactorily explained, as fully as my present strength will allow, and much more so than the speech of my Learned Friend left it necessary to do.

There is one other circumstance which occurred on Sunday, and which I cannot pass over in silence:—it is the cruel perversion of the beautiful text from the Gospel on which Mr. Smith preached his last sermon. That circumstance alone evinces the incurable prejudice against this unfortunate man, which so far blinded his prosecutors, that they actually represent him as choosing that most affecting lamentation over the fall of Jerusalem, in order to excite the slaves to accomplish the destruction of Demerara. The lamentation of one who loved a country was by them thought to be selected to stimulate those who were to destroy a country;—as if tragical reprehensions of the horrors of an assault were likely to be exhibited in the camp of the assailants the night before they were to storm a city. It is wonderful that these prosecutors should not have perceived that such a choice of a text would have been very natural for Mr. Smith, only on the supposition that he had been full of love and compassion and alarm for the European inhabitants of Demerara. The simple truth was, that the estate was about to be sold, the negroes to be scattered over the colony by auction, and that,—by one of those somewhat forced analogies, which may appear to me unreasonable, but which men of the most sublime genius as well as fervent piety have often applied to the interpretation of Scripture,—he likened their sad dispersion, in connection with their past neglect of the means of improvement, and the chance of their now losing all religious consolation and instruction, to the punishment inflicted on the Jews by the conquest and destruction of Jerusalem.

In what I have now addressed to the House, I have studiously abstained from all discussions of those awful questions which relate to the general structure of colonial society. I am as adverse as any one to the sudden emancipation of slaves,—much out of regard to the masters, but still more, as affecting a far larger portion of mankind, out of regard to the unhappy slaves themselves. Emancipation by violence and revolt I consider as the greatest calamity that can visit a community, except perpetual slavery. I should not have so deep an abhorrence of that wretched state, if I did not regard it as unfitting slaves for the safe exercise of the common rights of mankind. I should be grossly inconsistent with myself, if, believing this corrupt and degrading power of slavery over the mind to be the worst of all its evils, I were not very fearful of changes which would set free those beings, whom a cruel yoke had transformed into wild beasts, only that they might tear and devour each other. I acknowledge that the pacific emancipation of great multitudes thus wretchedly circumstanced is a problem so arduous as to perplex and almost silence the reason of man. Time is undoubtedly necessary; and I shall never object to time if it be asked in good faith. If I be convinced of the sincerity of the reformer, I will not object to the reformation merely on account of the time which it requires. But I have a right to be jealous of every attempt which, under pretence of asking time for reformation, may only aim at evading urgent demands, and indefinitely procrastinating the deliverance of men from bondage.

And here, Sir, I should naturally close; but I must be permitted to relate the subsequent treatment of Mr. Smith, because it reflects back the strongest light on the intentions and dispositions of those who prosecuted him, and of those who ratified the sentence of death. They who can cruelly treat the condemned, are not in general scrupulous about convicting the innocent. I have seen the widow of this unhappy

sufferer,—a pious and amiable woman, worthy to be the helpmate of her martyred husband, distinguished by a calm and clear understanding, and, as far as I could discover, of great accuracy, anxious rather to understate facts, and to counteract every lurking disposition to exaggerate, of which her judgment and humility might lead her to suspect herself. She told me her story with temper and simplicity; and, though I ventured more near to cross examination in my inquiries than delicacy would, perhaps, in any less important case have warranted, I saw not the least reason to distrust the exactness, any more than the honesty, of her narrative. Within a few days of his apprehension, Mr. Smith and his wife were closely confined in two small rooms at the top of a building, with only the outward roof between them and the sun, when the thermometer in the shade at their residence in the country stood at an average of 83 degrees of Fahrenheit. There they were confined from August to October, with two sentries at the door, which was kept open day and night. These sentries, who were relieved every two hours, had orders at every relief to call on the prisoner, to ascertain by his answer that he had not escaped. The generality, of course, executed their orders: "a few, more humane," said Mrs. Smith, "contented themselves during the night with quietly looking into the bed." Thus was he, under a mortal disease, and his wife, with all the delicacy of her sex, confined for two months, without seeing a human face except those of the sentries, and of the absolutely necessary attendants:—no physician, no friends to console, no legal adviser to guide the prisoner to the means of proving his innocence, no mitigation, no solace! The first human face which she saw, was that of the man who came to bear tidings of accusation, and trial, and death, to her husband. I asked her, "whether it was possible that the Governor knew that they were in this state of desolation?" She answered, "that she did not know, for nobody came to inquire after them!" He was afterwards re-

moved to apartments on the ground floor, the damp of which seems to have hastened his fate. Mrs. Smith was set at large, but obliged to ask a daily permission to see her husband for a limited time, and, if I remember right, before witnesses! After the packet had sailed, and when there was no longer cause to dread their communication with England, she was permitted to have unrestricted access to him, as long as his intercourse with earthly things endured. At length he was mercifully released from his woes. The funeral was ordered to take place at two o'clock in the morning, that no sorrowing negroes might follow the good man's corpse. The widow desired to accompany the remains of her husband to the grave:—even this sad luxury was prohibited. The officer declared that his instructions were peremptory: Mrs. Smith bowed with the silent submission of a broken heart. Mrs. Elliot, her friend and companion, not so borne down by sorrow, remonstrated. "Is it possible," she said, "that General Murray can have forbidden a poor widow from following the coffin of her husband?" The officer again answered that his orders were peremptory. "At all events," said Mrs. Elliot, "he cannot hinder us from meeting the coffin at the grave." Two negroes bore the coffin, with a single lantern going before; and at four o'clock in the morning, the two women met it in silent anguish at the grave, and poured over the remains of the persecuted man that tribute which nature pays to the memory of those whom we love. Two negro workmen, a carpenter and a bricklayer,—who had been members of his congregation,—were desirous of being permitted to protect and distinguish the spot where their benefactor reposed:—

"That ev'n his bones from insult to protect,
Some frail memorial, still erected nigh,
With uncouth rhymes and shapeless sculpture deckt,
Might claim the passing tribute of a sigh." *

* Gray's Elegy. — Ed.

They began to rail in and to brick over the grave: but as soon as this intelligence reached the First Fiscal, his Honour was pleased to forbid the work; he ordered the bricks to be taken up, the railing to be torn down, and the whole frail memorial of gratitude and piety to be destroyed!

"English vengeance wars not with the dead:"—it is not so in Guiana. As they began, so they concluded; and at least it must be owned that they were consistent in their treatment of the living and of the dead. They did not stop here: a few days after the death of Mr. Smith, they passed a vote of thanks to Mr. President Wray, for his services during the insurrection, which, I fear, consisted entirely in his judicial acts as a member of the Court-martial. It is the single instance, I believe, in the history of the world, where a popular meeting thanked a judge for his share in a trial which closed with a sentence of death! I must add, with sincere regret, that Mr. Wray, in an unadvised moment, accepted these tainted thanks, and expressed his gratitude for them. Shortly after they did their utmost to make him repent, and be ashamed of his rashness. I hold in my hand a Demerara newspaper, containing an account of a meeting, which must have been held with the knowledge of the Governor, and among whom I see nine names, which from the prefix "Honourable," belong, I presume, to persons who were members either of the Court of Justice or of the Court of Policy. It was an assembly which must be taken to represent the colony. Their first proceeding was a Declaration of Independence:—they resolved, that the King and Parliament of Great Britain had no right to change their laws without the consent of their Court of Policy. They founded this pretension,—which would be extravagant and insolent, if it were not so ridiculous,—on the first article of the Capitulation now lying before me, bearing date on the 19th of September, 1803, by which it was stipulated that no new establishments

should be introduced without the consent of the Court of Policy,—as if a military commander had any power to perpetuate the civil constitution of a conquered country, and as if the subsequent treaty had not ceded Demerara in full sovereignty to his Majesty. I should have disdained to notice such a declaration if it were not for what followed. This meeting took place eighteen days after the death of Mr. Smith. It might be hoped, that, if their hearts were not touched by his fate, at least their hatred might have been buried in his grave; but they showed how little chance of justice he had when living within the sphere of their influence, by their rancorous persecution of his memory after death. Eighteen days after he had expired in a dungeon, they passed a resolution of strong condemnation against two names not often joined,—the London Missionary Society and Lord Bathurst;—the Society, because they petitioned for mercy (for that is a crime in their eyes),—Lord Bathurst, because he advised His Majesty to dispense it to Mr. Smith. With an ignorance suitable to their other qualities, they consider the exercise of mercy as a violation of justice. They are not content with persecuting their victim to death;—they arraign nature, which released him, and justice, in the form of mercy, which would have delivered him out of their hands. Not satisfied with his life, they are incensed at not being able to brand his memory,—to put an ignominious end to his miseries, and to hang up his skeleton on a gibbet, which, as often as it waved in the winds, should warn every future missionary to fly from such a shore, and not dare to enter that colony to preach the doctrines of peace, of justice, and of mercy!

SPEECH

ON PRESENTING

A PETITION FROM THE MERCHANTS OF LONDON

FOR THE RECOGNITION OF

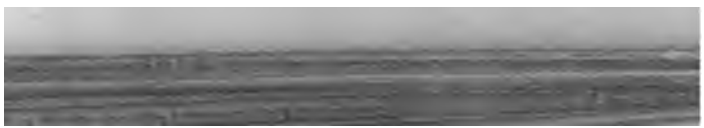
THE INDEPENDENT STATES

ESTABLISHED IN THE COUNTRIES OF AMERICA FORMERLY SUBJECT TO SPAIN.

DELIVERED IN THE HOUSE OF COMMONS, ON THE 15TH OF JUNE, 1824.

Scit . . . . .
Unde petat Romam, libertas ultima mundi
Quo steterit ferienda loco. — Pharsalia, lib. vii. 579.

"As for the wars anciently made on behalf of a parity or tacit conformity of estate, — to set up or pull down democracies and oligarchies, — I do not see how they may be well justified." — BACON, Essay on the True Greatness of Kingdoms.



SPEECH.

MR. SPEAKER,

I HOLD in my hand a Petition from the Merchants of the City of London who are engaged in trade with the countries of America formerly subject to the crown of Spain, praying that the House would adopt such measures as to them may seem meet to induce His Majesty's Government to recognise the independence of the states in those countries which have, in fact, established independent governments.

In presenting this Petition, I think it right to give the House such information as I possess relating to the number and character of the Petitioners, that it may be seen how far they are what they profess to be, —what are their means of knowledge,—what are likely to be the motives of their application,—what faith is due to their testimony, and what weight ought to be allowed to their judgment. Their number is one hundred and seventeen. Each of them is a member of a considerable commercial house interested in the trade to America: the Petition, therefore, conveys the sentiments of three or four hundred merchants. The signatures were collected in two days, without a public meeting, or even an advertisement. It was confined to the American merchants, but the Petitioners have no reason to believe that any merchant in London would have declined to put his name to it. I am but imperfectly qualified to estimate the importance and station of the Petitioners. Judging from common information, I should consider many of them as in the first rank of the mercantile community. I see among them the firm of Baring and Company, which, without disparagement to any others, may be placed at the head of the commercial establishments of the

world. I see also the firms of Herring, Powles, and Company; of Richardson and Company; Goldsmid and Company; Montefiore and Company; of Mr. Benjamin Shaw, who, as Chairman of Lloyd's Coffee-house, represents the most numerous and diversified interests of traffic; together with many others not equally known to me, but whom, if I did know, I have no doubt that I might with truth describe as persons of the highest mercantile respectability. I perceive among them the name of Ricardo, which I shall ever honour, and which I cannot now pronounce without emotion.* In a word, the Petitioners are the City of London. They contain individuals of all political parties; they are deeply interested in the subject,—perfectly conversant with all its commercial bearings; and they could not fill the high place where they stand, if they were not as much distinguished by intelligence and probity, as by those inferior advantages of wealth which with them are not fortunate accidents, but proofs of personal worth and professional merit.

If, Sir, it had been my intention to enter fully on this subject, and especially to discuss it adversely to the King's Government, I might have chosen a different form of presenting it to the House. But though I am and ever shall be a member of a party associated, as I conceive, for preserving the liberties of the kingdom, I present this Petition in the spirit of those by whom it is subscribed, in the hope of relieving that anxious desire which pervades the commercial world,—and which is also shared by the people of England,—that the present session may not close without some discussion or some explanation on this important subject, as far as that explanation can be given without inconvenience to the public service. For such a purpose, the presentation of a petition affords a convenient opportunity, both because it im-

* Mr. Ricardo had died on the 11th of September preceding — Ed.

plies the absence of any intention to blame the past measures of Government as foreign from the wishes of the Petitioners, and because it does not naturally require to be followed by any motion which might be represented as an invasion of the prerogative of the Crown, or as a restraint on the discretion of its constitutional advisers.

At the same time I must add, that in whatever form or at whatever period of the session I had brought this subject forward, I do not think that I should have felt myself called upon to discuss it in a tone very different from that which the nature of the present occasion appears to me to require. On a question of policy, where various opinions may be formed about the past, and where the only important part is necessarily prospective, I should naturally have wished to speak in a deliberative temper. However much I might lament the delays which had occurred in the recognition of the American States, I could hardly have gone further than strongly to urge that the time was now at least come for more decisive measures.

With respect, indeed, to the State Papers laid before us, I see nothing in them to blame or to regret, unless it be that excess of tenderness and forbearance towards the feelings and pretensions of European Spain which the Despatches themselves acknowledge. In all other respects I can only describe them as containing a body of liberal maxims of policy and just principles of public law, expressed with a precision, a circumspection, and a dignity which will always render them models and master-pieces of diplomatic composition.* Far from assailing these valuable documents, it is my object to uphold their doctrines, to reason from their principles, and to contend for no-

* They were among the first papers issued from the Foreign Office after the accession to office of Mr. Canning, and represented the spirit of *his* — as distinguished from the preceding Castlereagh policy. — Ed.

thing more than that the future policy of England on this subject may be governed by them. On them I rest: from them seems to me to flow every consequence respecting the future, which I think most desirable. I should naturally have had no other task than that of quoting them, of showing the stage to which they had conducted the question, of unfolding their import where they are too short for the generality of readers, and of enforcing their application to all that yet remains undone. But something more is made necessary by the confusion and misconception which prevail on one part of this subject. I have observed with astonishment, that persons otherwise well informed should here betray a forgetfulness of the most celebrated events in history, and an unacquaintance with the plainest principles of international law, which I should not have thought possible if I had not known it to be real. I am therefore obliged to justify these State Papers before I appeal to them. I must go back for a moment to those elementary principles which are so grossly misunderstood.

And first, Sir, with respect to the term "recognition," the introduction of which into these discussions has proved the principal occasion of darkness and error. It is a term which is used in two senses so different from each other as to have nothing very important in common. The first, which is the true and legitimate sense of the word "recognition," as a technical term of international law, is that in which it denotes the explicit acknowledgment of the independence of a country by a state which formerly exercised sovereignty over it. Spain has been doomed to exhibit more examples of this species of recognition than any other European state of which the most memorable cases are her acknowledgment of the independence of Portugal and Holland. This country also paid the penalty of evil councils in that hour of folly and infatuation which led to a hostile separation between the American Colonies and their mother country.

Such recognitions are renunciations of sovereignty, —surrenders of the power or of the claim to govern.

But we, who are as foreign to the Spanish states in America as we are to Spain herself,—who never had any more authority over them than over her,—have in this case no claims to renounce, no power to abdicate, no sovereignty to resign, no legal rights to confer. What we have to do is therefore not recognition in its first and most strictly proper sense. It is not by formal stipulations or solemn declarations that we are to recognise the American states, but by measures of practical policy, which imply that we acknowledge their independence. Our recognition is virtual. The most conspicuous part of such a recognition, is the act of sending and receiving diplomatic agents. It implies no guarantee, no alliance, no aid, no approbation of the successful revolt,—no intimation of an opinion concerning the justice or injustice of the means by which it has been accomplished. These are matters beyond our jurisdiction. It would be an usurpation in us to sit in judgment upon them. As a state, we can neither condemn nor justify revolutions which do not affect our safety, and are not amenable to our laws. We deal with the authorities of new states on the same principles and for the same object as with those of old. We consider them as governments actually exercising authority over the people of a country, with whom we are called upon to maintain a regular intercourse by diplomatic agents for the interests of Great Britain, and for the security of British subjects. Antiquity affords a presumption of stability, which, like all other presumptions, may and does fail in particular instances; but in itself it is nothing, and when it ceases to indicate stability, it ought to be regarded by a foreign country as of no account. The tacit recognition of a new state, with which alone I am now concerned, not being a judgment for the new government, or against the old, is not a deviation from perfect neutrality, or a cause of just offence to the dis-

possessed ruler.* When Great Britain recognised the United States, it was a concession by the recognising Power, the object of which was the advantage and security of the government recognised. But when Great Britain (I hope very soon) recognises the states of Spanish America, it will not be as a concession to them, for they need no such recognition; but it will be for her own sake,—to promote her own interest,—

* These doctrines are so indisputable, that they are not controverted even by the jurists of the Holy Alliance, whose writings in every other respect bear the most ignominious marks of the servitude of the human understanding under the empire of that confederacy. Martens, who in the last edition of his Summary of International Law has sacrificed even the principle of national independence (liv. iii. c. ii. s. 74.), without which no such law could be conceived, yet speaks as follows on recognitions:—Quant à la simple reconnaissance, il semble qu'une nation étrangère, n'étant pas obligée à juger de la légitimité, peut toutes les fois qu'elle est douteuse se permettre de s'attacher au seul fait de la possession, et traiter comme indépendant de son ancien gouvernement, l'état ou la province qui jouit dans le fait de l'indépendance, sans blesser par là les devoirs d'une rigoureuse neutralité." —Précis du Droit des Gens, liv. iii. c. ii. s. 80. Göttingen, 1821. Yet a comparison of the above sentence with the parallel passage of the same book in the edition of 1789 is a mortifying specimen of the decline of liberty of opinion in Europe. Even Kluber, the publisher of the proceedings of the Congress of Vienna, assents to the same doctrine, though he insidiously contrives the means of evading it by the insertion of one or two ambiguous words: "La souveraineté est acquise par un état, ou lors de sa fondation ou bien lorsqu'il se dégage légitimement de la dépendance dans laquelle il se trouvait. Pour être valide, elle n'a pas besoin d'être reconnue ou garantie par une puissance quelconque: pourvu que la possession ne soit pas *vicieuse*." —Droit des Gens, part i. c. i. s. 23. Mr. Kluber would find it difficult to answer the question, "Who is to judge whether the acquisition of independence be *legitimate*, or its possession *vicious?*" And it is evident that the latter qualification is utterly unmeaning; for if there be an original fault, which vitiates the possession of independence, it cannot be removed by foreign recognition, which, according to this writer himself, is needless where the independence is lawful, and must therefore be useless in those cases where he insinuates rather than asserts that foreign states are bound or entitled to treat it as unlawful.

to protect the trade and navigation of her subjects,—to acquire the best means of cultivating friendly relations with important countries, and of composing by immediate negotiation those differences which might otherwise terminate in war. Are these new doctrines? —quite the contrary. They are founded on the ancient practice of Europe. They have been acted upon for more than two centuries by England as well as other nations.

I have already generally alluded, Sir, to the memorable and glorious revolt by which the United Provinces of the Netherlands threw off the yoke of Spain. Nearly fourscore years passed from the beginning of that just insurrection to the time when a recognition of independence was at last extorted from Castilian pride and obstinacy. The people of the Netherlands first took up arms to obtain the redress of intolerable grievances; and for many years they forbore from proceeding to the last extremity against their tyrannical king.* It was not till Philip had formally proscribed the Prince of Orange,—the purest and most perfect model of a patriotic hero,—putting a price on his head, and promising not only pardon for every crime, but the honours of nobility to any one who should assassinate him †, that the States-General declared the King of Spain to have forfeited, by a long

* The following are the words of their illustrious historian :— "Post longam dubitationem, ab ordinibus Belgarum Philippo, ob violatas leges, imperium abrogatum est; lataque in illum sententia cum quo, si verum fatemur, novem jam per annos bellatum erat; sed tunc primum desitum nomen ejus et insignia usurpari, mutataque verba solennis jurisjurandi, ut qui princeps hactenus erat: hostis vocaretur. Hoc consilium *vicinas apud gentes necessitate et tot irritis ante precibus excusatum*, haud desiere Hispani ut scelus insectari, parum memores, pulsum a majoribus suis regno invisæ crudelitatis regem, eique prælatam stirpem non ex legibus genitam; ut jam taceantur vetera apud Francos, minus vetera apud Anglos, recentiora apud Danos et Sueonas dejectorum regum exempla." — Grotii Annales, lib. iii.

† Dumont, Corps Diplomatique, vol. v. p. 368.

course of merciless tyranny, his rights of sovereignty over the Netherlands.* Several assassins attempted the life of the good and great Prince of Orange: one wounded him dangerously; another consummated the murder,—a zealot of what was then, as it is now, called "legitimacy." He suffered the punishment due to his crime; but the King of Spain bestowed on his family the infamous nobility which had been earned by the assassin,—an example which has also disgraced our age. Before and after that murder, the greatest vicissitudes of fortune had attended the arms of those who fought for the liberties of their country. Their chiefs were driven into exile; their armies were dispersed. The greatest and most opulent of the Belgic Provinces, misled by priests, had made their peace with the tyrant. The greatest captains of the age commanded against them. The Duke of Alva employed his valour and experience to quell the revolts which had been produced by his cruelty. The genius of the Prince of Parma long threatened the infant liberty of Holland. Spinola balanced the consummate ability of Prince Maurice, and kept up an equal contest, till Gustavus Adolphus rescued Europe from the Holy Allies of that age. The insurgents had seen with dread the armament called "Invincible," which was designed, by the conquest of England, to destroy the last hopes of the Netherlands. Their independence appeared more than once to be annihilated; it was often endangered; it was to the last fiercely contested. The fortune of war was as often adverse as favourable to their arms.

It was not till the 30th of January, 1648†, nearly eighty years after the revolt, nearly seventy after the declaration of independence, that the Crown of Spain, by the Treaty of Munster, recognised the Republic of the United Provinces, and renounced all pretensions to sovereignty over their territory. What, during

* Dumont, vol. v. p. 413. † Ibid. vol. vi. p. 429.

that long period, was the policy of the European states? Did they wait for eighty years, till the obstinate punctilio or lazy pedantry of the Escurial was subdued? Did they forego all the advantages of friendly intercourse with a powerful and flourishing republic? Did they withhold from that republic the ordinary courtesy of keeping up a regular and open correspondence with her through avowed and honourable ministers? Did they refuse to their own subjects that protection for their lives and properties, which such a correspondence alone could afford? All this they ought to have done, according to the principles of those who would resist the prayer of the Petition in my hand. But nothing of this was then done or dreamt of. Every state in Europe, except the German branch of the House of Austria, sent ministers to the Hague, and received those of the States-General. Their friendship was prized, — their alliance courted; and defensive treaties were formed with them by Powers at peace with Spain, from the heroic Gustavus Adolphus to the barbarians of Persia and Muscovy. I say nothing of Elizabeth herself, — proscribed as she was as an usurper, — the stay of Holland, and the leader of the liberal party throughout Europe. But no one can question the authority on this point of her successor, — the great professor of legitimacy, — the founder of that doctrine of the divine right of kings, which led his family to destruction. As king of Scotland, in 1594, fifty-four years before the recognition by Spain, James recognised the States-General as the successors of the Houses of Austria and Burgundy, by stipulating with them the renewal of a treaty concluded between his mother Queen Mary and the Emperor Charles V.* In 1604, when he made peace with Spain, eager as he was by that transaction to be admitted into the fraternity of legitimate kings, he was so far curbed by

* Dumont, vol. v. p. 507.

the counsellors of Elizabeth, that he adhered to his own and to her recognition of the independence of Holland: the Court of Madrid virtually acknowledging, by several articles of the treaty*, that such perseverance in the recognition was no breach of neutrality, and no obstacle to friendship with Spain. At the very moment of the negotiation, Winwood was despatched with new instructions as minister to the States-General. It is needless to add that England, at peace with Spain, continued to treat Holland as an independent state for the forty-four years which passed from that treaty to the recognition of Munster.

The policy of England towards Portugal, though in itself far less memorable, is still more strikingly pertinent to the purpose of this argument. On the 1st of December 1640, the people of Portugal rose in arms against the tyranny of Spain, under which they had groaned about sixty years. They seated the Duke of Braganza on the throne. In January 1641, the Cortes of the kingdom were assembled to legalise his authority, though seldom convoked by his successors after their power was consolidated. Did England then wait the pleasure of Spain? Did she desist from connexion with Portugal, till it appeared from long experience that the attempts of Spain to recover that country must be unavailing? Did she even require that the Braganza Government should stand the test of time before she recognised its independent authority? No: within a year of the proclamation of the Duke of Braganza by the Cortes, a treaty of peace and alliance was signed at Windsor between Charles I. and John IV., which not only treats with the latter as an independent sovereign, but expressly speaks of the King of Castile as a dispossessed ruler; and

* See particularly Art. xii. and xiv. in Rymer, vol. xvi. The extreme anxiety of the English to adhere to their connexion with Holland, appears from the Instructions and Despatches in Winwood.

alleges on the part of the King of England, that he was moved to conclude this treaty "*by his solicitude to preserve the tranquillity of his kingdoms, and to secure the liberty of trade of his beloved subjects.*"* The contest was carried on: the Spaniards obtained victories; they excited conspiracies; they created divisions. The palace of the King of Portugal was the scene of domestic discord, court intrigue, and meditated usurpation. There is no trace of any complaint or remonstrance, or even murmur, against the early recognition by England, though it was not till twenty-six years afterwards that Spain herself acknowledged the independence of Portugal, and (what is remarkable) made that acknowledgment in a treaty concluded under the mediation of England.†

To these examples let me add an observation upon a part of the practice of nations, strongly illustrative of the principles which ought to decide this question. All the Powers of Europe treated England, under the Commonwealth and the Protectorate, as retaining her rights of sovereignty. They recognised these governments as much as they had recognised the Monarchy. The friends of Charles II. did not complain of this policy. That monarch, when restored, did not disallow the treaties of foreign Powers with the Republic or with Cromwell. Why? Because these Powers were obliged, for the interest of their own subjects, to negotiate with the government which, whatever might be its character, was actually obeyed by the British nation. They pronounced no opinion on the legitimacy of that government,—no judgment unfavourable to the claims of the exiled prince; they consulted only the security of the commerce and intercourse of their own subjects with the British Islands.

It was quite otherwise with the recognition by

* Dumont, vol. vi. p. 238.

† Treaty of Lisbon, February 23d, 1688. Dumont, vol. vii. p. 70.

Louis XIV. of the son of James II., when his father died, as King of Great Britain. As that prince was not acknowledged and obeyed in England, no interest of France required that Louis should maintain an intercourse, or take any notice of his pretensions. That recognition was therefore justly resented by England as a wanton insult, — as a direct interference in her internal affairs, — as an assumption of authority to pronounce against the lawfulness of her government.*

I am aware, Sir, that our complaints of the interference of France in the American war may be quoted against my argument. Those who glance over the surface of history may see some likeness between that case and the present: but the resemblance is merely superficial; it disappears on the slightest examination. It was not of the establishment of diplomatic relations with America by France in 1778, that Great Britain complained. We now know from the last edition of the Memoirs of the Marquis de Bouillé, that from the first appearance of discontent in 1765, the Duc de Choiseul employed secret agents to excite commotion in North America. That gallant and accomplished officer himself was no stranger to these intrigues after the year 1768, when he became go-

* "Le Comte de Manchester, ambassadeur d'Angleterre, ne parut plus à Versailles après la reconnaissance du Prince de Galles, et partit, sans prendre congé, quelques jours après l'arrivée du Roi à Fontainebleau. Le Roi Guillaume reçut en sa maison de Loo en Hollande la nouvelle de la mort du Roi Jacques et de cette reconnaissance. Il était alors à table avec quelques autres seigneurs. Il ne proféra pas une seule parole outre la nouvelle; mais il rougit, enfonça son chapeau, et ne put contenir son visage. Il envoya ordre à Londres d'en chasser sur le champ Poussin, et de lui faire repasser la mer aussi-tôt après. Il faisait les affaires du Roi en l'absence d'un ambassadeur et d'un envoyé. Cet éclat fut suivi de près de la signature de la Grande Alliance défensive et offensive contre la France et l'Espagne, entre l'Empereur et l'Empire, l'Angleterre et la Hollande." — Mémoires de St. Simon, vol. iii. p. 228.

vernor of Guadaloupe.* It is well known that the same clandestine and treacherous machinations were continued to the last, in a time of profound peace, and in spite of professions of amity so repeated and so solemn, that the breach of them produced a more than political resentment in the mind of King George III. against the House of Bourbon. We also learn, from no contemptible authority, that at the very time that the preliminaries of peace were signed at Fontainebleau in 1762 by the Duc de Choiseul and the Duke of Bedford, the former of these ministers concluded a secret treaty with Spain, by which it was stipulated, that in eight years both Powers should attack England;—a design of which the removal of Choiseul defeated the execution.† The recognition of the United States was no more than the consummation and avowal of these dark designs. So conscious was the Court of Versailles of their own perfidy, that they expected war to be the immediate consequence of it. On the same day with the treaty of commerce they signed another secret treaty ‡, by which it was stipulated, that in case of hostilities between France and England, America should make common cause with the former. The division of the territories to be conquered was even provided for. Negligent and supine as were the English Ministers, they can hardly be supposed to have been altogether ignorant of these secret treaties. The cause of war, then, was not a mere recognition after a long warning to the mother country,—after a more than generous forbearance shown to her dignity and claims (as it would be now in the case with Spanish America): it was that France, in defiance of the most solemn assurances of her Ministers, and also as it is said of her Sovereign, at length

* Mémoires de Bouillé, p. 15. Choiseul, Relation du Voyage de Louis XVI. à Varennes, p. 14.

† Ferrand, Trois Démembremens de la Pologne, vol. i. p. 76.

‡ Martens, Recueil de Traités, vol. i. p. 701.

openly avowed those machinations to destroy the union between the British nation and the people of America, — Englishmen by blood, and freemen by principle, dear to us by both ties, but most dear by the last, — which they had carried on during so many years of peace and pretended friendship.

I now proceed to review the progress which we have already made towards the recognition of the states of Spanish America, as it appears in the Papers before the House. I will not dwell on the statute 3 Geo. IV. c. 43., which provides, "that the merchandise of countries in America or the West Indies, *being or having been a part of the dominions of the King of Spain*, may be imported into Great Britain in ships which are the build of these countries;" though that clause must be allowed to be an acknowledgment of independence, unless it could be said that the provinces separated from Spain were either countries without inhabitants, or inhabited by men without a government. Neither will I say any thing of the declaration made to Spain, that consuls must be immediately sent to South America; though I shall hereafter argue, that the appointment of consuls is as much an act of recognition as the appointment of higher ministers. Lord Liverpool indeed said, that by doing so we were "treating South America as independent," — which is the only species of recognition which we have a right to make. I should be the last to blame the suspension of such a purpose during the lawless and faithless invasion of Spain, then threatened, and soon after executed. So strongly was I convinced that this was a sacred duty, that I at that time declined to present a petition of a nature similar to that which I now offer to your consideration. Nothing under heaven could have induced me to give the slightest aid to the unrighteous violence which then menaced the independence of Spain.

The Despatch of Mr. Secretary Canning to Sir Charles Stuart, of the 31st of March, 1823, is the

first paper which I wish to recall to the remembrance, and recommend to the serious attention of the House. It declares that time and events have decided the separation of Spanish America,—that various circumstances in their internal condition may *accelerate or retard* the recognition of their independence; and it concludes with intelligibly intimating that Great Britain would resist the conquest of any part of these provinces by France. The most explicit warning was thus given to Spain, to France, and to all Europe, as well as to the states of Spanish America, that Great Britain considered their independence as certain,—that she regarded the time of recognising it as a question only of policy,—and that she would not suffer foreign Powers to interfere for preventing its establishment. France, indeed, is the only Power named; but the reason of the case applied to every other, and extended as much to conquest *under the name of Spain* as if it were made avowedly for France herself.

The next document to which I shall refer is the Memorandum of a Conference between M. de Polignac and Mr. Secretary Canning, on the 9th of October, 1823; and I cannot help earnestly recommending to all persons who have any doubt with respect to the present state of this question, or to the footing on which it has stood for many months,—who do not see or do not own that our determination has long been made and announced,—to observe with care the force and extent of the language of the British Government on this important occasion. "The British Government," it is there said, "were of opinion that any attempt to bring Spanish America under its ancient submission must be utterly hopeless; that all negotiation for that purpose would be unsuccessful; and that the prolongation or renewal of war for the same object could be only a waste of human life and an infliction of calamities on both parties to no end." Language cannot more strongly declare the convic-

tion of Great Britain that the issue of the contest was even then no longer doubtful, — that there was indeed no longer any such contest as could affect the policy of foreign states towards America. As soon as we had made known our opinion in terms so positive to Europe and America, the pretensions of Spain could not in point of justice be any reason for a delay. After declaring that we should remain, however, "strictly neutral if war should be unhappily prolonged," we go on to state more explicitly than before, "that the junction of any power in an enterprise of Spain against the colonies would be viewed as an entirely new question, upon which they must take such decision as the interest of Great Britain might require;" — language which, however cautious and moderate in its forms, is in substance too clear to be misunderstood. After this paragraph, no state in Europe would have had a right to affect surprise at the recognition, if it had been proclaimed on the following day. Still more clearly, if possible, is the same principle avowed in a subsequent paragraph: — "That the British Government had no desire to precipitate the recognition, so long as there was any reasonable chance of an accommodation with the mother country, by which such a recognition might come first from Spain;" but that it could not wait indefinitely for that result; that it could not consent to make its recognition of the new states dependent on that of Spain; "and that it would consider any foreign interference, either by force or by menace, in the dispute between Spain and the colonies, as a motive for recognising the latter without delay." And here in a matter less important I should be willing to stop, and to rest my case on this passage alone. Words cannot be more explicit: it is needless to comment on them, and impossible to evade them. We declare, that the only accommodation which we contemplate, is one which is to terminate in recognition by Spain; and that we cannot indefinitely wait even for that result. We assert our right to recognise,

whether Spain does so or not; and we state a case in which we should immediately recognise, independently of the consent of the Spanish Government, and without regard to the internal state of the American provinces. As a natural consequence of these positions, we decline any part in a proposed congress of European Powers for regulating the affairs of America.

Sir, I cannot quit this document without paying a just tribute to that part which relates to commerce, — to the firmness with which it asserts the right of this country to continue her important trade with America, as well as the necessity of the appointment of consuls for the protection of that trade, — and to the distinct annunciation, "that an attempt to renew the obsolete interdictions would be best cut short by a speedy and unqualified recognition of the independence of the South American states." Still more do I applaud the declaration, "that Great Britain had no desire to set up any separate right to the free enjoyment of this trade; that she considered the force of circumstances and the irreversible progress of events to have already determined the question of the existence of that freedom for all the world." These are declarations equally wise and admirable. They coincide indeed so evidently with the well-understood interest of every state, that it is mortifying to be compelled to speak of them as generous; but they are so much at variance with the base and short-sighted policy of Governments, that it is refreshing and consolatory to meet them in Acts of State; — at least when, as here, they must be sincere, because the circumstances of their promulgation secure their observance, and indeed render deviation from them impossible. I read them over and over with the utmost pleasure. They breathe the spirit of that just policy and sound philosophy, which teaches us to regard the interest of our country as best promoted by an increase of the industry, wealth, and happiness of other nations.

Although the attention of the House is chiefly directed to the acts of our own Government, it is not foreign from the purpose of my argument to solicit them for a few minutes to consider the admirable Message sent on the 2d of December, 1823, by the President of the United States* to the Congress of that great republic. I heartily rejoice in the perfect agreement of that Message with the principles professed by us to the French Minister, and afterwards to all the great Powers of Europe, whether military or maritime, and to the great English State beyond the Atlantic. I am not anxious to ascertain whether the Message was influenced by our communication, or was the mere result of similarity of principle and coincidence of interest. The United States had at all events long preceded us in the recognition. They sent consuls and commissioners two years before us, who found the greater part of South America quiet and secure, and in the agitations of the remainder, met with no obstacles to friendly intercourse. This recognition neither interrupted amicable relations with Spain, nor occasioned remonstrances from any Power in Europe. They declared their neutrality at the moment of recognition: they solemnly renew that declaration in the Message before me. That wise Government, in grave but determined language, and with that reasonable and deliberate tone which becomes true courage, proclaims the principles of her policy, and makes known the cases in which the care of her own safety will compel her to take up arms for the defence of other states. I have already observed its coincidence with the declarations of England; which indeed is perfect, if allowance be made for the deeper, or at least more immediate, interest in the independence of South America, which near neighbourhood gives to the United States. This coincidence of the two great English Commonwealths (for so I delight to call them,

* Mr. Monroe. — Ed.

and I heartily pray that they may be for ever united in the cause of justice and liberty) cannot be contemplated without the utmost pleasure by every enlightened citizen of either. Above all, Sir, there is one coincidence between them, which is, I trust, of happy augury to the whole civilised world: — they have both declared their neutrality in the American contest as long as it shall be confined to Spain and her former colonies, or as long as no foreign Power shall interfere.

On the 25th of December, 1823, M. Ofalia, the Spanish Minister for Foreign Affairs, proposed to the principal Powers of Europe a conference at Paris on the best means of enabling his Catholic Majesty to re-establish his legitimate authority, and to spread the blessings of his paternal government over the vast provinces of America which once acknowledged the supremacy of Spain. To this communication, which was made also to this Government, an answer was given on the 30th of January following, which cannot be read by Englishmen without approbation and pleasure. In this answer, the proposition of a congress is once more rejected; the British Government adheres to its original declaration, that it would wait for a time, — but a limited time only, — and would rejoice to see his Catholic Majesty have the grace and advantage of taking the lead among the Powers of Europe in the recognition of the American states, as well for the greater benefit and security of these states themselves, as from the generous disposition felt by Great Britain to spare the remains of dignity and grandeur, however infinitesimally small, which may still be fancied to belong to the thing called the crown of Spain. Even the shadow of long-departed greatness was treated with compassionate forbearance. But all these courtesies and decorums were to have their limit. The interests of Europe and America imposed higher duties, which were not to be violated for the sake of leaving undisturbed the precedents copied by public offices at Madrid, from the power of Charles V. or the

arrogance of Philip II. The principal circumstance in which this Despatch added to the preceding, was, that it both laid a wider foundation for the policy of recognition, and made a much nearer approach to exactness in fixing the time beyond which it could not be delayed.

I have no subsequent official information. I have heard, and I believe, that Spain has answered this Despatch, — that she repeats her invitation to England to send a minister to the proposed congress, and that she has notified the assent of Russia, Austria, France, and Prussia. I have heard, and I also believe, that England on this occasion has proved true to herself, — that, in conformity to her ancient character, and in consistency with her repeated declarations, she has declined all discussion of this question with the Holy (or *un*-Holy) Alliance. Would to God that we had from the beginning kept aloof from these congresses, in which we have made shipwreck of our ancient honour! If that were not possible, would to God that we had protested, at least by silence and absence, against that conspiracy at Verona, which has annihilated the liberties of continental Europe!

In confirmation of the review which I have taken of the documents, I may also here mention the declaration made in this House, that during the occupation of Spain by a French army, every armament against the Spanish ports must be considered as having a French character, and being therefore within the principle repeatedly laid down in the Papers. Spain indeed, as a belligerent, can be now considered only as a fang of the Holy Alliance, powerless in itself, but which that monster has the power to arm with thrice-distilled venom.

As the case now stands, Sir, I conceive it to be declared by Great Britain, that the acknowledgment of the independence of Spanish America is no breach of faith or neutrality towards Spain, — that such an acknowledgment might long ago have been made

without any violation of her rights or interposition in her affairs — that we have been for at least two years entitled to make it by all the rules of international law, — that we have delayed it, from friendly consideration for the feelings and claims of the Spanish Government,— that we have now carried our forbearance to the utmost verge of reasonable generosity, — and, having exhausted all the offices of friendship and good neighbourhood, are at perfect liberty to consult only the interest of our own subjects, and the just pretensions of the American states.

In adopting this recognition now, we shall give just offence to no other Power. But if we did, and once suffer ourselves to be influenced by the apprehension of danger in resisting unjust pretensions, we destroy the only bulwark, — that of principle, — that guards a nation. There never was a time when it would be more perilous to make concessions, or to show feebleness and fear. We live in an age of the most extravagant and monstrous pretensions, supported by tremendous force. A confederacy of absolute monarchs claim the right of controlling the internal government of all nations. In the exercise of that usurped power they have already taken military possession of the whole continent of Europe. Continental governments either obey their laws or tremble at their displeasure. England alone has condemned their principles, and is independent of their power. They ascribe all the misfortunes of the present age to the example of her institutions. On England, therefore, they must look with irreconcilable hatred. As long as she is free and powerful, their system is incomplete, all the precautions of their tyrannical policy are imperfect, and their oppressed subjects may turn their eyes to her, indulging the hope that circumstances will one day compel us to exchange the alliance of kings for the friendship of nations.

I will not say that such a state of the world does not require a considerate and circumspect policy. I

acknowledge, and should earnestly contend, that there never was a moment at which the continuance of peace was more desirable. After passing through all the sufferings of twenty years' universal war, and feeling its internal evils perhaps more severely since its close than when it raged most widely and fiercely, we are only now beginning to taste the natural and genuine fruits of peace. The robust constitution of a free community is just showing its power to heal the deepest wounds,—to compose obstinate convulsions,—and to restore health and vigour to every disordered function or disabled member. I deprecate the occurrence of what must disturb this noble process,—one of the miracles of Liberty. But I am also firmly convinced, that prudence in the present circumstances of Europe forbids every measure that can be represented as having the appearance of fear. If we carry our caution further than strict abstinence from injustice, we cannot doubt to what motive our forbearance will be imputed. Every delay is liable to that interpretation. The least scrupulous politicians condemn falsehood when it wears the appearance of fear. It may be sometimes unsafe to fire at the royal tiger who suddenly crosses your path in an eastern forest; but it is thought fully as dangerous to betray your fear by running away: prudent men quietly pursue their road without altering their pace,—without provoking or tempting the ferocious animal.

Having thus traced the progress of measures which have led us to the very verge of recognition, the question naturally presents itself, Why do we not now recognise? It is not so much my duty as it is that of the Government, to tell us why they do not complete their own system. Every preparation is made; every adverse claim is rejected; ample notice is given to all parties. Why is the determination delayed? We are irrevocably pledged to maintain our principles, and to act on them towards America. We have cut off all honourable retreat. Why should we seem to

hesitate? America expects from us the common marks of amity and respect. Spain cannot complain at their being granted. No other state can intimate an opinion on the subject, without an open attack on the independence of Great Britain. What then hinders the decisive word from being spoken?

We have already indeed taken one step more, in addition to those on which I have too long dwelt. We have sent consuls to all the ports of Spanish America to which we trade, as well as to the seats of the new Government in that country. We have seen in the public papers, that the consul at Buenos Ayres has presented a letter from the Secretary of State for Foreign Affairs in this country to the Secretary of that Government, desiring that they would grant the permission to the consul, without which he cannot exercise his powers. Does not this act acknowledge the independence of the State of Buenos Ayres? An independent state alone can appoint consuls: — an independent state only can receive consuls. We have not only sent consuls, but commissioners. What is their character? Can it be any other than that of an envoy with a new title? Every agent publicly accredited to a foreign government, and not limited by his commission to commercial affairs, must in reality be a diplomatic minister, whatever may be his official name. We read of the public and joyful reception of these commissioners, of presents made by them to the American administrators, and of speeches in which they announce the good-will of the Government and people of England towards the infant republics. I allude to the speech of Colonel Hamilton at Bogota, on which, as I have seen it only in a translation, I can only venture to conjecture (after making some allowance for the overflow of courtesy and kindness which is apt to occur on such occasions) that it expressed the anxious wishes and earnest hopes of this country, that he might find Columbia in a state capable of maintaining those relations of amity which

we were sincerely desirous to establish. Where should we apply for redress, if a Columbian privateer were to capture an English merchantman? Not at Madrid, but at Bogota. Does not this answer decide the whole question?

But British subjects, Sir, have a right to expect, not merely that their Government shall provide some means of redress, but that they should provide adequate and effectual means, — those which universal experience has proved to be the best. They are not bound to be content with the unavowed agency and precarious good offices of naval officers, nor even with the inferior and imperfect protection of an agent whose commission is limited to the security of trade. The power of a consul is confined to commercial affairs; and there are many of the severest wrongs which the merchant suffers, which, as they may not directly affect him in his trading concerns, are not within the proper province of the consul. The English trader at Buenos Ayres ought not to feel his safety less perfect than that of other foreign merchants. The habit of trusting to an ambassador for security has a tendency to reconcile the spirit of adventurous industry with a constant affection for the place of a man's birth. If these advantages are not inconsiderable to any European nation, they must be important to the most commercial and maritime people of the world.

The American Governments at present rate our friendship too high, to be jealous and punctilious in their intercourse with us. But a little longer delay may give rise to an unfavourable judgment of our conduct. They may even doubt our neutrality itself. Instead of admitting that the acknowledgment of their independence would be a breach of neutrality towards Spain, they may much more naturally conceive that the delay to acknowledge it is a breach of neutrality towards themselves. Do we in truth deal equally by both the contending parties? We do not content ourselves with consuls at Cadiz and

Barcelona. If we expect justice to our subjects from the Government of Ferdinand VII., we in return pay every honour to that Government as a Power of the first class. We lend it every aid that it can desire from the presence of a British minister of the highest rank. We do not inquire whether he *legitimately* deposed his father, or *legally* dispersed the Cortes who preserved his throne. The inequality becomes the more strikingly offensive, when it is considered that the number of English in the American States is far greater, and our commerce with them much more important.

We have long since advised Spain to acknowledge the independence of her late provinces in America: we have told her that it is the only basis on which negotiations can be carried on, and that it affords her the only chance of preserving some of the advantages of friendship and commerce with these vast territories. Whatever rendered it right for Spain to recognise them, must also render it right for us. If we now delay, Spain may very speciously charge us with insincerity. "It now," she may say, "appears from your own conduct, that under pretence of friendship you advised us to do that from which you yourselves recoil."

We have declared that we should immediately proceed to recognition, either if Spain were to invade the liberty of trade which we now possess, or if any other Power were to take a part in the contest between her and the American states. But do not these declarations necessarily imply that they are in fact independent? Surely no injustice of Spain, or France, or Russia could authorise England to acknowledge that to be a fact which we do not know to be so. Either therefore we have threatened to do what ought not to be done, or these states are now in a condition to be treated as independent.

It is now many months since it was declared to M. de Polignac, that we should consider "any foreign interference, by force or *menace*, in the dispute between Spain and her colonies, as a motive for recog-

nising the latter without delay." I ask whether the interference "by menace" has not now occurred? M. Ofalia, on the 26th of December, proposed a congress on the affairs of America, in hopes that the allies of King Ferdinand "will assist him in accomplishing the worthy object of upholding the principles of order and legitimacy, the subversion of which, once commenced in America, would speedily communicate." Now I have already said, that, if I am rightly informed, this proposition, happily rejected by Great Britain, has been acceded to by the Allied Powers. Preparations for the congress are said to be already made. Can there be a more distinct case of interference by menace in the American contest, than the agreement to assemble a congress for the purpose described in the despatch of M. Ofalia?

But it is said, Sir, that we ought not to recognise independence where a contest is still maintained, or where governments of some apparent stability do not exist. Both these ideas seem to be comprehended in the proposition, — "that we ought to recognise only where independence is actually enjoyed;" though that proposition properly only affirms the former. But it is said that we are called upon only to acknowledge the fact of independence, and before we make the acknowledgment we ought to have evidence of the fact. To this single point the discussion is now confined. All considerations of European policy are (I cannot repeat it too often) excluded: the policy of Spain, or France, or Russia, is no longer an element in the problem. The fact of independence is now the sole object of consideration. If there be no independence, we cannot acknowledge it: if there be, we must.

To understand the matter rightly, we must consider separately — what are often confounded — the two questions, — Whether there is a contest with Spain still pending? and Whether internal tranquillity be securely established? As to the first, we must mean such a contest as exhibits some equality of force, and

of which, if the combatants were left to themselves, the issue would be in some degree doubtful. It never can be understood so as to include a bare chance, that Spain might recover her ancient dominions at some distant and absolutely uncertain period.

In this inquiry, do you consider Spanish America as one mass, or do you apply your inquiry to the peculiar situation of each individual state? For the purposes of the present argument you may view them in either light:—in the latter, because they are sovereign commonwealths, as independent of eachother as they all are of Europe; or in the former, because they are united by a treaty of alliance offensive and defensive, which binds them to make common cause in this contest, and to conclude no separate peace with Spain.

If I look on Spanish America as one vast unit, the question of the existence of any serious contest is too simple to admit the slightest doubt. What proportion does the contest bear to the country in which it prevails? My geography, or at least my recollection, does not serve me so far, that I could enumerate the degrees of latitude and longitude over which that vast country extends. On the western coast, however, it reaches from the northern point of New California to the utmost limit of cultivation towards Cape Horn. On the eastern it extends from the mouth of the Mississippi to that of the Orinoco; and, after the immense exception of Guiana and Brazil, from the Rio de la Plata to the southern footsteps of civilised man. The prodigious varieties of its elevation exhibit in the same parallel of latitude all the climates and products of the globe. It is the only abundant source of the metals justly called "precious,"— the most generally and permanently useful of all commodities, except those which are necessary to the preservation of human life. It is unequally and most scantily peopled by sixteen or eighteen millions,— whose numbers, freedom of industry, and security of

property must be quadrupled in a century. Its length on the Pacific coast is equal to that of the whole continent of Africa from the Cape of good Hope to the Straits of Gibraltar. It is more extensive than the vast possessions of Russia or of Great Britain in Asia. The Spanish language is spoken over a line of nearly six thousand miles. The State of Mexico alone is five times larger than European Spain. A single communication cut through these territories between the Atlantic and Pacific would bring China six thousand miles nearer to Europe*; and the Republic of Columbia or that of Mexico may open and command that new road for the commerce of the world.

What is the Spanish strength? A single castle in Mexico, an island on the coast of Chili, and a small army in Upper Peru! Is this a contest approaching to equality? Is it sufficient to render the independence of such a country doubtful? Does it deserve the name of a contest? It is very little more than what in some of the wretched governments of the East is thought desirable to keep alive the vigilance of the rulers, and to exercise the martial spirit of the people. There is no present appearance that the country can be reduced by the power of Spain alone; and if any other Power were to interfere, it is acknowledged that such an interference would impose new duties on Great Britain.

If, on the other hand, we consider the American states as separate, the fact of independence is undisputed, with respect at least to some of them. What doubts can be entertained of the independence of the immense provinces of Caraccas, New Grenada, and Quito, which now form the Republic of Columbia? There, a considerable Spanish army has been defeated: all have been either destroyed, or expelled from the territory of the Republic: not a Royalist soldier remains. Three congresses have successively

* See Humboldt's admirable Essay on New Spain.

been assembled: they have formed a reasonable and promising Constitution: and they have endeavoured to establish a wise system and a just administration of law. In the midst of their difficulties the Columbians have ventured (and hitherto with perfect success) to encounter the arduous and perilous, but noble problem of a pacific emancipation of their slaves. They have been able to observe good faith with their creditors, and thus to preserve the greatest of all resources for times of danger. Their tranquillity has stood the test of the long absence of Bolivar in Peru. Englishmen who have lately traversed their territories in various directions, are unanimous in stating that their journeys were made in the most undisturbed security. Every where they saw the laws obeyed, justice administered, armies disciplined, and the revenue peaceably collected. Many British subjects have indeed given practical proofs of their faith in the power and will of the Columbian Government to protect industry and property: — they have established houses of trade; they have undertaken to work mines; and they are establishing steam-boats on the Orinoco and the Magdalena. Where is the state which can give better proofs of secure independence?

The Republic of Buenos Ayres has an equally undisputed enjoyment of independence. There no Spanish soldier has set his foot for fourteen years. It would be as difficult to find a Royalist there, as it would be a Jacobite in England (I mean only a personal adherent of the House of Stuart, for as to Jacobites in principle, I fear they never were more abundant). Its rulers are so conscious of internal security, that they have crossed the Andes, and interposed with vigour and effect in the revolutions of Chili and Peru. Whoever wishes to know the state of Chili, will find it in a very valuable book lately published by Mrs. Graham*, a lady whom I have the

* Journal of a Residence in Chili. — Ed.

happiness to call my friend, who, by the faithful and picturesque minuteness of her descriptions, places her reader in the midst of the country, and introduces him to the familiar acquaintance of the inhabitants. Whatever seeds of internal discord may be perceived, we do not discover the vestige of any party friendly to the dominion of Spain. Even in Peru, where the spirit of independence has most recently appeared, and appears most to fluctuate, no formidable body of Spanish partisans has been observed by the most intelligent observers; and it is very doubtful whether even the army which keeps the field in that province against the American cause be devoted to the restored despotism of Spain. Mexico, the greatest, doubtless, and most populous, but not perhaps the most enlightened, portion of Spanish America, has passed through severe trials, and seems hitherto far from showing a disposition again to fall under the authority of Spain. Even the party who long bore the name of Spain on their banners, imbibed in that very contest the spirit of independence, and at length ceased to look abroad for a sovereign. The last Viceroy who was sent from Spain* was compelled to acknowledge the independence of Mexico; and the Royalist officer†, who appeared for a time so fortunate, could not win his way to a transient power without declaring against the pretensions of the mother country.

If, then, we consider these states as one nation, there cannot be said to be any remaining contest. If, on the other hand, we consider them separately, why do we not immediately comply with the prayer of this Petition, by recognising the independence of those which we must allow to be in fact independent? Where is the objection to the instantaneous recognition at least of Columbia and Buenos Ayres?

But here, Sir, I shall be reminded of the second condition (as applicable to Mexico and Peru),—the

* Admiral Apodaca.—Ed. † Don Augustin Iturbide.—Ed.

necessity of a stable government and of internal tranquillity. Independence and good government are unfortunately very different things. Most countries have enjoyed the former: not above three or four since the beginning of history have had any pretensions to the latter. Still, many grossly misgoverned countries have performed the common duties of justice and good-will to their neighbours, — I do not say so well as more wisely ordered commonwealths, but still tolerably, and always much better than if they had not been controlled by the influence of opinion acting through a regular intercourse with other nations.

We really do not deal with Spain and America by the same weight and measure. We exact proofs of independence and tranquillity from America: we dispense both with independence and tranquillity in Old Spain. We have an ambassador at Madrid, though the whole kingdom be in the hands of France. We treat Spain with all the honours due to a civilised state of the first rank, though we have been told in this House, that the continuance of the French army there is an act of humanity, necessary to prevent the faction of frantic Royalists from destroying, not only the friends of liberty, but every Spaniard who hesitates to carry on a war of persecution and extirpation against all who are not the zealous supporters of unbounded tyranny. On the other hand, we require of the new-born states of America to solve the awful problem of reconciling liberty with order. We expect that all the efforts incident to a fearful struggle shall at once subside into the most perfect and undisturbed tranquillity,—that every visionary or ambitious hope which it has kindled shall submit without a murmur to the counsels of wisdom and the authority of the laws. Who are we who exact the performance of such hard conditions? Are we the English nation, to look thus coldly on rising liberty? We have indulgence enough for tyrants; we make

ample allowance for the difficulties of their situation; we are ready enough to deprecate the censure of their worst acts. And are we, who spent ages of bloodshed in struggling for freedom, to treat with such severity others now following our example? Are we to refuse that indulgence to the errors and faults of other nations, which was so long needed by our own ancestors? We who have passed through every form of civil and religious tyranny,—who persecuted Protestants under Mary,—who—I blush to add—persecuted Catholics under Elizabeth,—shall we now inconsistently,—unreasonably,—basely hold that distractions so much fewer and milder and shorter, endured in the same glorious cause, will unfit other nations for its attainment, and preclude them from the enjoyment of that rank and those privileges which we at the same moment recognise as belonging to slaves and barbarians?

I call upon my Right Honourable Friend* distinctly to tell us, on what principle he considers the perfect enjoyment of internal quiet as a condition necessary for the acknowledgment of an independence which cannot be denied to exist. I can discover none, unless the confusions of a country were such as to endanger the personal safety of a foreign minister. Yet the European Powers have always had ministers at Constantinople, though it was well known that the barbarians who ruled there would, on the approach of a quarrel, send these unfortunate gentlemen to a prison in which they might remain during a long war. But if there is any such insecurity in these states, how do the ministers of the United States of North America reside in their capitals? or why do we trust our own consuls and commissioners among them? Is there any physical peculiarity in a consul, which renders him invulnerable where an ambassador or an envoy would be in danger? Is he bullet-proof or bayonet-proof?

* Mr. Canning.—Ed.

or does he wear a coat of mail? The same Government, one would think, which redresses an individual grievance on the application of a consul, may remove a cause of national difference after listening to the remonstrance of an envoy.

I will venture even to contend, that internal distractions, instead of being an impediment to diplomatic intercourse, are rather an additional reason for it. An ambassador is more necessary in a disturbed than in a tranquil country, inasmuch as the evils against which his presence is intended to guard are more likely to occur in the former than in the latter. It is in the midst of civil commotions that the foreign trader is the most likely to be wronged; and it is then that he therefore requires not only the good offices of a consul, but the weightier interposition of a higher minister. In a perfectly well-ordered country the laws and the tribunals might be sufficient. In the same manner it is obvious, that if an ambassador be an important security for the preservation of good understanding between the best regulated governments, his presence must be far more requisite to prevent the angry passions of exasperated factions from breaking out into war. Whether therefore we consider the individual or the public interests which are secured by embassies, it seems no paradox to maintain, that if they could be dispensed with at all, it would rather be in quiet than in disturbed countries.

The interests here at stake may be said to be rather individual than national. But a wrong done to the humblest British subject, an insult offered to the British flag flying on the slightest skiff, is, if unrepaired, a dishonour to the British nation.

Then the amount of private interests engaged in our trade with Spanish America is so great as to render them a large part of the national interest. There are already at least a hundred English houses of trade established in various parts of that immense country. A great body of skilful miners have lately

left this country, to restore and increase the working of the mines of Mexico. Botanists, and geologists, and zoologists, are preparing to explore regions too vast to be exhausted by the Condamines and Humboldts. These missionaries of civilisation, who are about to spread European, and especially English opinions and habits, and to teach industry and the arts, with their natural consequences—the love of order and the desire of quiet,—are at the same time opening new markets for the produce of British labour, and new sources of improvement as well as enjoyment to the people of America.

The excellent petition from Liverpool to the King sets forth the value of our South American commerce very clearly, with respect to its present extent, its rapid increase, and its probable permanence. In 1819, the official returns represent the value of British exports at thirty-five millions sterling,—in 1822, at forty-six millions; and, in the opinion of the Petitioners, who are witnesses of the highest authority, a great part of this prodigious increase is to be ascribed to the progress of the South American trade. On this point, however, they are not content with probabilities. In 1822, they tell us that the British exports to the late Spanish colonies amounted in value to three millions eight hundred thousand pounds sterling; and in 1823, to five millions six hundred thousand;—an increase of near two millions in one year. As both the years compared are subsequent to the opening of the American ports, we may lay out of the account the indirect trade formerly carried on with the Spanish Main through the West Indies, the far greater part of which must now be transferred to a cheaper, shorter, and more convenient channel. In the year 1820 and the three following years, the annual average number of ships which sailed from the port of Liverpool to Spanish America, was one hundred and eighty-nine; and the number of those which have so sailed in five months of the present year, is already one hundred

and twenty-four; being an increase in the proportion of thirty to nineteen. Another criterion of the importance of this trade, on which the traders of Liverpool are peculiarly well qualified to judge, is the export of cotton goods from their own port. The result of the comparison of that export to the United States of America, and to certain parts * of Spanish and Portuguese America, is peculiarly instructive and striking:—

ACTUAL VALUE OF COTTON GOODS EXPORTED FROM LIVERPOOL.

Year ending Jan. 5. 1820.	£	Year ending Jan. 5. 1821.	£
To United States	882,029	To United States	1,033,206
To Spanish and Portuguese America	852,651	To Spanish and Portuguese America	1,111,574

It is to be observed, that this last extraordinary statement relates to the comparative infancy of this trade; that it comprehends neither Vera Cruz nor the ports of Columbia; and that the striking disproportion in the rate of increase does not arise from the abatement of the North American demand (for that has increased), but from the rapid progress of that in the South American market. Already, then, this new commerce surpasses in amount, and still more in progress, that trade with the United States which is one of the oldest and most extensive, as well as most progressive branches of our traffic.

If I consult another respectable authority, and look at the subject in a somewhat different light, I find the annual value of our whole exports estimated in Lord Liverpool's speech † on this subject at forty-three millions sterling, of which about twenty millions' worth goes to Europe, and about the value of seventeen millions to North and South America; leaving

* Viz., Brazil, Buenos Ayres, Monte Video, Chili, and the West Coast of America.

† Delivered in the House of Lords on the 15th of March.—Ed.

between four and five millions to Africa and Asia. According to this statement, I may reckon the trade to the new independent states as one-eighth of the trade of the whole British Empire. It is more than our trade to all our possessions on the continent and islands of America was, before the beginning of the fatal American war in 1774:—for fatal I call it, not because I lament the independence of America, but because I deeply deplore the hostile separation of the two great nations of English race.

The official accounts of exports and imports laid before this House on the 3d of May, 1824, present another view of this subject, in which the Spanish colonies are carefully separated from Brazil. By these accounts it appears that the exports to the Spanish colonies were as follows:—

1818.	1819.	1820.
£735,344.	850,943.	431,615.
1821.	1822.	1823.
£917,916.	1,210,825.	2,016,276.

I quote all these statements of this commerce, though they do not entirely agree with each other, because I well know the difficulty of attaining exactness on such subjects,—because the least of them is perfectly sufficient for my purpose,—and because the last, though not so large as others in amount, shows more clearly than any other its rapid progress, and the proportion which its increase bears to the extension of American independence.

If it were important to swell this account, I might follow the example of the Liverpool Petitioners (who are to be heard with the more respect, because on this subject they have no interest), by adding to the general amount of commerce the supply of money to the American states of about twelve millions sterling. For though I of course allow that such contracts cannot be enforced by the arms of this country against a foreign state, yet I consider the commerce in money

as equally legitimate and honourable with any other sort of commercial dealing, and equally advantageous to the country of the lenders, wherever it is profitable to the lenders themselves. I see no difference in principle between a loan on the security of public revenue, and a loan on a mortgage of private property; and the protection of such dealings is in my opinion a perfectly good additional reason for hastening to do that which is previously determined to be politic and just.

If, Sir, I were further called to illustrate the value of a free intercourse with South America, I should refer the House to a valuable work, which I hope all who hear me have read, and which I know they ought to read,—I mean Captain Basil Hall's Travels in that country. The whole book is one continued proof of the importance of a Free Trade to England, to America, and to mankind. No man knows better how to extract information from the most seemingly trifling conversations, and to make them the means of conveying the most just conception of the opinions, interests, and feelings of a people. Though he can weigh interests in the scales of Smith, he also seizes with the skill of Plutarch on those small circumstances and expressions which characterise not only individuals, but nations. "While we were admiring the scenery," says he, "our people had established themselves in a hut, and were preparing supper under the direction of a peasant,—a tall copper-coloured semibarbarous native of the forest,—but who, notwithstanding his uncivilised appearance, turned out to be a very shrewd fellow, and gave us sufficiently pertinent answers to most of our queries. A young Spaniard of our party, a Royalist by birth, and half a patriot in sentiment, asked the mountaineer what harm the King had done. "Why," answered he, "as for the King, his only fault, at least that I know of, was his living too far off. If a king be really good for a country, it appears to me that he ought to live in that country, not two thou-

sand leagues away from it." On asking him what was his opinion of free trade, "My opinion," said he, "is this:—formerly I paid nine dollars for the piece of cloth of which this shirt is made; I now pay two:—that is my opinion of free trade.'"* This simple story illustrates better than a thousand arguments the sense which the American *consumer* has of the consequences of free trade to him.

If we ask how it affects the American *producer*, we shall find a decisive answer in the same admirable work. His interest is to produce his commodities at less expense, and to sell them at a higher price, as well as in greater quantity:—all these objects he has obtained. Before the Revolution, he sold his copper at seven dollars a quintal: in 1821, he sold it at thirteen. The articles which he uses in the mines are, on the other hand, reduced;—steel from fifty dollars a quintal to sixteen dollars; iron from twenty-five to eight; the provisions of his labourers in the proportion of twenty-one to fourteen; the fine cloth which he himself wears, from twenty-three dollars a yard to twelve; his crockery from three hundred and fifty reals per crate to forty; his hardware from three hundred to one hundred reals; and his glass from two hundred to one hundred.†

It is justly observed by Captain Hall, that however incompetent a Peruvian might be to appreciate the benefits of political liberty, he can have no difficulty in estimating such sensible and palpable improvements in the condition of himself and his countrymen. With Spanish authority he connects the remembrance of restriction, monopoly, degradation, poverty, discomfort, privation. In those who struggle to restore it, we may be assured that the majority of Americans can see only enemies who come to rob them of private enjoyments and personal accommodations.

* Vol. ii. p. 188.

† Vol. ii. p. 47. This curious table relates to Chili,—the anecdote to Mexico.

It will perhaps be said, that Spain is willing to abandon her monopolies. But if she does now, might she not by the same authority restore them? If her sovereignty be restored, she must possess abundant means of evading the execution of any concessions now made in the hour of her distress. The faith of a Ferdinand is the only security she offers. On the other hand, if America continues independent, our security is the strong sense of a most palpable interest already spread among the people,—the interest of the miner of Chili in selling his copper, and of the peasant of Mexico in buying his shirt. I prefer it to the royal word of Ferdinand. But do we not know that the Royalist General Canterac, in the summer of 1823, declared the old prohibitory laws to be still in force in Peru, and announced his intention of accordingly confiscating all English merchandise which he had before generously spared? Do we not know that English commerce every where flies from the Royalists, and hails with security and joy the appearance of the American flag?* But it is needless to reason on this subject, or to refer to the conduct of local agents. We have a decree of Ferdinand himself to appeal to, bearing date at Madrid on the 9th February, 1824. It is a very curious document, and very agreeable to the general character of his most important edicts;—in it there is more than the usual repugnance between the title and the purport. As he published a table of proscription under the name of a decree of amnesty, so his professed grant of free trade is in truth an establishment of monopoly. The first article does indeed promise a free trade to Spanish America. The second, however, hastens to declare, that this free trade is to be "regulated" by a future law,—that it is to be confined to certain ports,—and that it shall be subjected to duties, which are to be regulated by the same law. The third also declares, that the preference

* As in the evacuation of Lima in the spring of 1824.

to be granted to Spain shall be "regulated" in like manner. As if the duties, limitations, and preferences thus announced had not provided such means of evasion as were equivalent to a repeal of the first article, the Royal lawgiver proceeds in the fourth article to enact, that "till the two foregoing articles can receive their perfect execution, there shall be nothing innovated in the state of America." As the Court of Madrid does not recognise the legality of what has been done in America since the revolt, must not this be reasonably interpreted to import a re-establishment of the Spanish laws of absolute monopoly, till the Government of Spain shall be disposed to promulgate that code of restriction, of preference, and of duties, — perhaps prohibitory ones, — which, according to them, constitutes free trade.

But, Sir, it will be said elsewhere, though not here, that I now argue on the selfish and sordid principle of exclusive regard to British interest, — that I would sacrifice every higher consideration to the extension of our traffic, and to the increase of our profits. For this is the insolent language, in which those who gratify their ambition by plundering and destroying their fellow-creatures, have in all ages dared to speak of those who better their own condition by multiplying the enjoyments of mankind. In answer, I might content myself with saying, that having proved the recognition of the independence of these states to be conformable to justice, I have a perfect right to recommend it as conducive to the welfare of this nation. But I deny altogether the doctrine, that commerce has a selfish character, — that it can benefit one party without being advantageous to the other. It is twice blessed: it blesses the giver as well as the receiver. It consists in the interchange of the means of enjoyment; and its very essence is to employ one part of mankind in contributing to the happiness of others. What is the instrument by which a savage is to be raised from a state in which he has nothing

human but the form, but commerce, — exciting in his mind the desire of accommodation and enjoyment, and presenting to him the means of obtaining these advantages? It is thus only that he is gradually raised to industry, — to foresight, — to a respect for property, — to a sense of justice, — to a perception of the necessity of laws. What corrects his prejudices against foreign nations and dissimilar races? — commercial intercourse. What slowly teaches him that the quiet and well-being of the most distant regions have some tendency to promote the prosperity of his own? What at length disposes him even to tolerate those religious differences which led him to regard the greater part of the species with abhorrence? Nothing but the intercourse and familiarity into which commerce alone could have tempted him. What diffuses wealth, and therefore increases the leisure which calls into existence the works of genius, the discoveries of science, and the inventions of art? What transports just opinions of government into enslaved countries, — raises the importance of the middle and lower classes of society, and thus reforms social institutions, and establishes equal liberty? What but Commerce — the real civiliser and emancipator of mankind?

A delay of recognition would be an important breach of justice to the American states. We send consuls to their territory, in the confidence that their Government and their judges will do justice to British subjects; but we receive no authorised agents from them in return. Until they shall be recognised by the King, our courts of law will not acknowledge their existence. Our statutes allow certain privileges to ships coming from the "provinces in America lately subject to Spain;" but our courts will not acknowledge that these provinces are subject to any government. If the maritime war which has lately commenced should long continue, many questions of international law may arise out of our anomalous situation, which it will be impossible to determine by

any established principles. If we escape this difficulty by recognising the actual governments in courts of Prize, how absurd, inconsistent, and inconvenient it is not to extend the same recognition to all our tribunals!

The reception of a new state into the society of civilised nations by those acts which amount to recognition, is a proceeding which, as it has no legal character, and is purely of a moral nature, must vary very much in its value, according to the authority of the nations who, upon such occasions, act as the representatives of civilised men. I will say nothing of England, but that she is the only anciently free state in the world. For her to refuse her moral aid to communities struggling for liberty, is an act of unnatural harshness, which, if it does not recoil on herself, must injure America in the estimation of mankind.

This is not all. The delay of recognition tends to prolong and exasperate the disorders which are the reason alleged for it. It encourages Spain to waste herself in desperate efforts; it encourages the Holy Alliance to sow division, — to employ intrigue and corruption, — to threaten, perhaps to equip and despatch, armaments. Then it encourages every incendiary to excite revolt, and every ambitious adventurer to embark in projects of usurpation. It is a cruel policy, which has the strongest tendency to continue for a time, of which we cannot foresee the limits, rapine, and blood, commotions and civil wars, throughout the larger portion of the New World. By maintaining an outlawry against them, we shall give them the character of outlaws. The long continuance of confusion, — in part arising from our refusing to countenance their governments, to impose on them the mild yoke of civilised opinion, and to teach them respect for themselves by associating them with other free communities, — may at length really unfit them for liberty or order, and destroy in America

that capacity to maintain the usual relations of peace and amity with us which undoubtedly exists there at present.

It is vain to expect that Spain, even if she were to reconquer America, could establish in that country a vigorous government, capable of securing a peaceful intercourse with other countries. America is too determined, and Spain is too feeble. The only possible result of so unhappy an event would be, to exhibit the wretched spectacle of beggary, plunder, bloodshed, and alternate anarchy and despotism in a country almost depopulated. It may require time to give firmness to native governments; but it is impossible that a Spanish one should ever again acquire it.

Sir, I am far from foretelling that the American nations will not speedily and completely subdue the agitations which are in some degree, perhaps, inseparable from a struggle for independence. I have no such gloomy forebodings; though even if I were to yield to them, I should not speak the language once grateful to the ears of this House, if I were not to say that the chance of liberty is worth the agitations of centuries. If any Englishman were to speak opposite doctrines to these rising communities, the present power and prosperity and glory of England would enable them to detect his slavish sophistry. As a man, I trust that the virtue and fortune of these American states will spare them many of the sufferings which appear to be the price set on liberty; but as a Briton, I am desirous that we should aid them by early treating them with that honour and kindness which the justice, humanity, valour, and magnanimity which they have displayed in the prosecution of the noblest object of human pursuit, have so well deserved.

To conclude:—the delay of the recognition is not due to Spain: it is injurious to America: it is inconvenient to all European nations,—and only most inconvenient to Great Britain, because she has a greater intercourse with America than any other nation. I

would not endanger the safety of my own country for the advantage of others; I would not violate the rules of duty to promote its interest; I would not take unlawful means even for the purpose of diffusing liberty among men; I would not violate neutrality to serve America, nor commit injustice to extend the commerce of England: but I would do an act, consistent with neutrality, and warranted by impartial justice, tending to mature the liberty and to consolidate the internal quiet of a vast continent, — to increase the probability of the benefits of free and just government being attained by a great portion of mankind, — to procure for England the honour of a becoming share in contributing to so unspeakable a blessing, — to prevent the dictators of Europe from becoming the masters of the New World, — to re-establish some balance of opinions and force, by placing the republics of America, with the wealth and maritime power of the world, in the scale opposite to that of the European Allies, — to establish beyond the Atlantic an asylum which may preserve, till happier times, the remains of the Spanish name, — to save nations, who have already proved their generous spirit, from becoming the slaves of the Holy Alliance, — and to rescue sixteen millions of American Spaniards from sharing with their European brethren that sort of law and justice, — of peace and order, — which now prevails from the Pyrenees to the Rock of Gibraltar.

SPEECH

ON THE

CIVIL GOVERNMENT OF CANADA.

DELIVERED IN THE HOUSE OF COMMONS, ON THE 2D OF MAY, 1828.

MR. SPEAKER,

I think I may interpret fairly the general feeling of the House, when I express my congratulations upon the great extent of talent and information which the Honourable Member for St. Michael's * has just displayed, and that I may venture to assert he has given us full assurance, in his future progress, of proving a useful and valuable member of the Parliament of this country. I cannot, also, avoid observing, that the laudable curiosity which carried him to visit that country whose situation is now the subject of discussion, and still more the curiosity which led him to visit that Imperial Republic which occupies the other best portion of the American continent, gave evidence of a mind actuated by enlarged and liberal views.

After having presented a petition signed by eighty-seven thousand of the inhabitants of Lower Canada —comprehending in that number nine-tenths of the heads of families in the province, and more than two-thirds of its landed proprietors, and after having shown that the Petitioners had the greatest causes of

* Mr. [now the Right Honourable] Henry Labouchere. — ED.

complaint against the administration of the government in that colony, it would be an act of inconsistency on my part to attempt to throw any obstacle in the way of that inquiry which the Right Honourable Gentleman* proposes. It might seem, indeed, a more natural course on my part, if I had seconded such a proposition. Perhaps I might have been contented to give a silent acquiescence in the appointment of a committee, and to reserve any observations I may have to offer until some specific measure is proposed, or until the House is in possession of the information which may be procured through the labours of the committee — perhaps, I say, I might have been disposed to adopt this course if I had not been entrusted with the presentation of that Petition. But I feel bound by a sense of the trust reposed in me to allow no opportunity to pass over of calling the attention of the House to the grievances of the Petitioners, and to their claims for redress and for the maintenance of their legitimate rights. This duty I hold myself bound to execute, according to the best of my ability, without sacrificing my judgment, or rendering it subordinate to any sense of duty; — but feeling only that the confidence of the Petitioners binds me to act on their behalf, and as their advocate, in precisely the same manner, and to the same extent, as if I had been invested with another character, and authorised to state their complaints in a different situation.†

To begin then with the speech of the Right Honourable Gentleman, I may take leave to observe, that in all that was contained in the latter part of it he has my fullest and most cordial assent. In 1822, when

* Mr. Huskisson, Secretary for the Colonial Department, had moved to refer the whole question of the already embroiled affairs of the Canadian provinces to a Select Committee of the House of Commons, which was eventually agreed to. — Ed.

† This alludes to his nomination some time previously by the House of Assembly of Lower Canada as the Agent of the Province, which nomination had not however taken effect. — Ed.

the Canadians were last before the House, I stated the principles which ought to be maintained with respect to what the Right Honourable Gentleman has very properly and very eloquently called the "Great British Confederacy." I hold now, as I did then, that all the different portions of that Confederacy are integral parts of the British Empire, and as such entitled to the fullest protection. I hold that they are all bound together as one great class, by an alliance prior in importance to every other, — more binding upon us than any treaty ever entered into with any state, — the fulfilment of which we can never desert without the sacrifice of a great moral duty. I hold that it can be a matter of no moment, in this bond of alliance, whether the parties be divided by oceans or be neighbours: I hold that the moral bond of duty and protection is the same. My maxims of Colonial Policy are few and simple: — a full and efficient protection from all foreign influence; full permission to conduct the whole of their own internal affairs; compelling them to pay all the reasonable expenses of their own government, and giving them at the same time a perfect control over the expenditure of the money: and imposing no restrictions of any kind upon the industry or traffic of the people. These are the only means by which the hitherto almost incurable evil of distant government can be either mitigated or removed. And it may be a matter of doubt, whether in such circumstances the colonists would not be under a more gentle control, and in a happier state, than if they were to be admitted to a full participation in the rule, and brought under the immediate and full protection, of the parent government. I agree most fully with the Honourable Gentleman who spoke last, when he expressed a wish that we should leave the regulation of the internal affairs of the colonies to the colonists, except in cases of the most urgent and manifest necessity. The most urgent and manifest necessity, I say; and few and rare ought

to be the exceptions to the rule even upon the strength of those necessities.

Under these circumstances of right I contend it is prudent to regard all our colonies; and peculiarly the population of these two great provinces; — provinces placed in one of those rare and happy states of society in which the progress of population must be regarded as a blessing to mankind, — exempt from the curse of fostering slavery, — exempt from the evils produced by the contentions of jarring systems of religion, — enjoying the blessings of universal toleration, — and presenting a state of society the most unlike that can possibly be imagined to the fastidious distinctions of Europe. Exempt at once from the slavery of the West, and the castes of the East, — exempt, too, from the embarrassments of that other great continent which we have chosen as a penal settlement, and in which the prejudices of society have been fostered, I regret to find, in a most unreasonable degree, — exempt from all the artificial distinctions of the Old World, and many of the evils of the New, we see a great population rapidly growing up to be a great nation. None of the claims of such a population ought to be cast aside; and none of their complaints can receive any but the most serious consideration.

In the first part of his speech the Right Honourable Gentleman declared, that the excesses and complaints of the colonists arose from the defect of their constitution, and next from certain contentions into which they had fallen with Lord Dalhousie. In any thing I may say on this occasion, I beg to be understood as not casting any imputation upon the character of that Noble Lord: I speak merely of the acts of his Government; and I wish solely to be understood as saying, that my opinion of the acts of that Government are different from those which I believe to have been conscientiously his.

I, however, must say, that I thought the Right Honourable Gentleman in one part of his address had

indulged himself in some pleasantries which seemed ill suited to the subject to which he claimed our attention; — I allude to the three essential grievances which he seemed to imagine led to many, if not all, of the discontents and complaints of the colonists. There was the perplexed system of real-property-law, creating such a vexatious delay, and such enormous costs to the suitor as to amount very nearly to a denial of justice: this, he said, arose from adhering to the Custom of Paris. The next cause of discontent is the inadequate representation of the people in Parliament: that he recommended to the immediate attention of the committee, for the purpose of revision. Lastly, the members of the Legislature were so absurdly ignorant of the first principles of political economy as to have attempted to exclude all the industry and capital of other countries from flowing in to enrich and fertilise their shores. These were the three grounds upon which he formally impeached the people of Canada before the Knights, Citizens, and Burgesses of Great Britain and Ireland in Parliament assembled.

Did the Right Honourable Gentleman never hear of any other system of law, in any other country than Canada, in which a jumble of obsolete usages were mixed up and confounded with modern subtleties, until the mind of the most acute men of the age and nation — men who had, in a service of forty years, passed through every stage of its gradations — were driven to declare that they felt totally unable to find their way through its labyrinths, and were compelled, by their doubts of what was law and what was not, to add in a most ruinous degree to the expenses of the suitor? This system has been called the "Common Law," — "the wisdom of our ancestors," — and various other venerable names. Did he never hear of a system of representation in any other country totally irreconcilable either with the state of the population or with any rule or principle under heaven? Have I not

heard over and over again from the lips of the Right Honourable Gentleman, and from one* whom, alas! I shall hear no more, that this inadequate system of representation possessed extraordinary advantages over those more systematic contrivances which resulted from the studies of the "constitution-makers" of other countries? And yet it is for this very irregularity in their mode of representation that the Canadians are now to be brought before the judgment of the Right Honourable Gentleman's committee. I felt still greater wonder, however, when I heard him mention his third ground of objection to the proceedings of the colonists, and his third cause of their discontent—their ignorance of political economy. Too surely the laws for the exclusion of the capital and industry of other countries did display the grossest ignorance of that science! I should not much wonder if I heard of the Canadians devising plans to prevent the entrance of a single grain of foreign corn into the provinces. I should not wonder to hear the members of their Legislature and their great landowners contending that it was absolutely necessary that the people should be able to raise all their own food; and consequently (although, perhaps, they do not see the consequences) to make every other nation completely independent of their products and their industry. It is perhaps barely possible that some such nonsense as this might be uttered in the legislative assembly of the Canadians.

Then again, Sir, the Right Honourable Gentleman has alluded to the Seigneurs and their vassals. Some of these "most potent, grave, and reverend" Seigneurs may happen to be jealous of their manorial rights: for seigneuralty means manor, and a seigneur is only, therefore, a lord of the manor. How harmless this lofty word seems to be when translated! Some of these seigneurs might happen, I say, to be jealous of

* Mr. Canning. — Ed.

their manorial privileges, and anxious for the preservation of their game. I am a very bad sportsman myself, and not well acquainted with the various objects of anxiety to such persons; but there may be, too, in these colonies also, persons who may take upon themselves to institute a rigorous inquiry into the state of their game, and into the best methods of preserving red game and black game, and pheasants and partridges; and who might be disposed to make it a question whether any evils arise from the preservation of these things for their sport, or whether the safety, the liberty, and the life of their fellow-subjects ought not to be sacrificed for their personal gratification.

With regard to the observance of the Custom of Paris, I beg the House to consider that no change was effected from 1760 to 1789; and (although I admit with the Right Honourable Gentleman that it may be bad as a system of conveyance, and may be expensive on account of the difficulties produced by mortgages) that the Canadians cannot be very ill off under a code of laws which grew up under the auspices of the Parliament of Paris,—a body comprising the greatest learning and talent ever brought to the study of the law, and boasting the names of L'Hôpital and Montesquieu.

Neither can it be said, that the Assembly of Canada was so entirely indifferent to its system of representation: for it ought to be recollected, that they passed a bill to amend it, which was thrown out by the Council,—that is, in fact, by the Government. At all events, this shows that there was no want of a disposition to amend the state of their representation; although Government might differ from them as to the best method of accomplishing it. A bill for establishing the independence of the judges was another remedial measure thrown out by the Upper House.

As at present informed, however, without going further into these questions, I see enough stated in

the Petition upon the table of the House, to justify the appointment of a committee of inquiry.

In every country, Sir, the wishes of the greater number of the inhabitants, and of those in possession of the great mass of the property, ought to have great influence in the government;—they ought to possess the power of the government. If this be true generally, the rule ought, *à multò fortiori*, to be followed in the government of distant colonies, from which the information that is to guide the Government at home is sent by a few, and is never correct or complete. A Government on the spot, though with the means of obtaining correct information, is exposed to the delusions of prejudice:—for a Government at a distance, the only safe course to pursue is to follow public opinion. In making the practical application of this principle, if I find the Government of any country engaged in squabbles with the great mass of the people,—if I find it engaged in vexatious controversies and ill-timed disputes,—especially if that Government be the Government of a colony,—I say, that there is a reasonable presumption against that Government. I do not charge it with injustice, but I charge it with imprudence and indiscretion; and I say that it is unfit to hold the authority intrusted to it. The ten years of squabbles and hostility which have existed in this instance, are a sufficient charge against this Government.

I was surprised to hear the Right Honourable Gentleman put the People and the Government on the same footing in this respect. What is government good for, if not to temper passion with wisdom? The People are said to be deficient in certain qualities, and a Government are said to possess them. If the People are not deficient in them, it is a fallacy to talk of the danger of intrusting them with political power: if they are deficient, where is the common sense of exacting from them that moderation which government is instituted for the very purpose of supplying?

Taking this to be true as a general principle, it cannot be false in its application to the question before the House. As I understand it, the House of Assembly has a right to appropriate the supplies which itself has granted. The House of Commons knows well how to appreciate that right, and should not quarrel with the House of Assembly for indulging in a similar feeling. The Right Honourable Gentleman himself admits the existence of this right. The Governor-General has, however, infringed it, by appropriating a sum of one hundred and forty thousand pounds without the authority of the Assembly. That House does not claim to appropriate the revenue raised under the Act of 1774: they only claim a right to examine the items of the appropriation in order to ascertain if the Government need any fresh supplies. The Petitioners state it as one of their not unimaginary grievances, that they have lost one hundred thousand pounds by the neglect of the Receiver-General. This is not one of those grievances which are said to arise from the Assembly's claim of political rights. Another dispute arises from the Governor-General claiming, in imitation of the power of the King, a right to confirm the Speaker of the House of Assembly. This right,—a very ancient one, and venerable from its antiquity and from being an established fact of an excellent constitution at home,—is a most absurd adjunct to a colonial government. But I will not investigate the question, nor enter into any legal argument with regard to it; for no discussion can in any case, as I feel, be put in competition with the feelings of a whole people. It is a fatal error in the rulers of a country to despise the people: its safety, honour, and strength, are best preserved by consulting their wishes and feelings. The Government at Quebec, despising such considerations, has been long engaged in a scuffle with the people, and has thought hard words and hard blows not inconsistent with its dignity.

I observe, Sir, that twenty-one bills were passed by

the House of Assembly in 1827,—most of them reformatory,—of which not one was approved of by the Legislative Council. Is the Governor responsible for this? I answer, he is. The Council is nothing else but his tool: it is not, as at present constituted, a fair and just constitutional check between the popular assembly and the Governor. Of the twenty-seven Councillors, seventeen hold places under the Government at pleasure, dividing among themselves yearly fifteen thousand pounds, which is not a small sum in a country in which a thousand a-year is a large income for a country gentleman. I omit the Bishop, who is perhaps rather too much inclined to authority, but is of a pacific character. The minority, worn out in their fruitless resistance, have withdrawn from attendance on the Council. Two of them, being the most considerable landholders in the province, were amongst the subscribers to the Petition. I appeal to the House, if the Canadians are not justified in considering the very existence of this Council as a constitutional grievance?

It has been said that there is no aristocracy formed in the province. It is not possible that this part of Mr. Pitt's plan could ever have been carried into execution: an aristocracy—the creature of time and opinion—cannot be created. But men of great merit and superior qualifications get an influence over the people; and they form a species of aristocracy, differing, indeed, from one of birth and descent, but supplying the materials out of which a constitutional senate may be constituted. Such an aristocracy there is in Canada; but it is excluded from the Council.

There are then, Sir, two specific classes of grievances complained of by the Lower-Canadians: the first is, the continued hostility to all the projected measures of the Assembly by the Governor; the second is, the use he makes of the Council to oppose them. These are the grounds on which inquiry and change are demanded. I, however, do not look upon these circum-

stances alone as peremptorily requiring a change in the constitution of the province. These are wrongs which the Government might have remedied. It might have selected a better Council; and it might have sent out instructions to the Governor to consult the feelings of the people. It might have pointed out to him the example of a Government which gave way to the wishes of a people, — of a majority of the people, expressed by a majority of their representatives, — on a question, too, of religious liberty *, and instead of weakening themselves, had thereby more firmly seated themselves in the hearts of the people. On reviewing the whole question, the only practical remedy which I see, is to introduce more prudence and discretion into the counsels of the Administration of the Province.

The Right Honourable Gentleman has made allusion to the English settlers in Lower Canada, as if they were oppressed by the natives. But I ask what law has been passed by the Assembly that is unjust to them? Is it as a remedy for this that it is proposed to change the scheme of representation? The English inhabitants of Lower Canada, with some few exceptions, collected in towns as merchants or the agents of merchants, — very respectable persons, I have no doubt, — amount to about eighty thousand: would it not be the height of injustice to give them the same influence which the four hundred thousand Canadians, from their numbers and property, ought to possess? Sir, when I hear of an inquiry on account of measures necessary to protect English settlers, I greatly lament that any such language should have been used. Are we to have an English colony in Canada separated from the rest of the inhabitants, — a favoured body, with peculiar privileges? Shall they have a sympathy with English sympathies and English interests? And shall we deal out to Canada six hundred years of such miseries as we have to Ireland?

* Alluding to the repeal of the Test Act. — Ed.

Let us not, in God's name, introduce such curses into another region. Let our policy be to give all the King's subjects in Canada equal law and equal justice. I cannot listen to unwise distinctions, generating alarm, and leading to nothing but evil, without adverting to them; and I shall be glad if my observations supply the Gentlemen opposite with the opportunity of disavowing, — knowing, as I do, that the disavowal will be sincere—that any such distinction is to be kept up.

As to Upper Canada, the statement of the Right Honourable Gentleman appears to be scanty in information: it does not point out,—as is usual in proposing such a Committee,—what is to be the termination of the change proposed. He has thrown out two or three plans; but he has also himself supplied objections to them. The Assembly there appears to be as independent as the one in the Lower Province. I have heard of some of their measures—an Alien bill, a Catholic bill, and a bill for regulating the Press: and these discussions were managed with as much spirit as those of an assembly which I will not say is better, but which has the good fortune to be their superiors. The people have been much disappointed by the immense grants of land which have been reserved for the Church of England,—which faith is not that of the majority of the people. Such endowments are to be held sacred where they have been long made; but I do not see the propriety of creating them anew,—and for a Church, too, to which the majority of the people do not belong. Then, with regard to the regulations which have been made for the new college, I see with astonishment that, in a country where the majority of the people do not belong to the Church of England, the professors are all to subscribe to the Thirty-nine Articles: so that, if Dr. Adam Smith were alive, he could not fill the chair of political economy, and Dr. Black would be excluded from that of chemistry. Another thing

should be considered:—a large portion of the population consist of American settlers, who can least of all men bear the intrusion of law into the domains of conscience and religion. It is a bad augury for the welfare of the province, that opinions prevalent at the distance of thousands of miles, are to be the foundations of the college-charter: it is still worse, if they be only the opinions of a faction, that we cannot interfere to correct the injustice.

To the proposed plan for the union of the two provinces there are so many and such powerful objections, that I scarcely think that such a measure can soon be successfully concluded. The Bill proposed in 1822, whereby the bitterness of the Lower-Canada Assembly was to be mitigated by an infusion of mildness from the Upper Province,—failing as it did,—has excited general alarm and mistrust among all your colonies. Except that measure, which ought to be looked upon as a warning rather than a precedent, I think the grounds upon which we have now been called upon to interfere the scantiest that ever were exhibited.

I do not know, Sir, what other plans are to be produced, but I think the wisest measure would be to send out a temperate Governor, with instructions to be candid, and to supply him with such a Council as will put an end to the present disputes, and infuse a better spirit into the administration than it has known for the last ten years. I wish, however, to state, that I have not come to a final judgment, but have merely described what the bearing of my mind is on those general maxims of colonial policy, any deviation from which is as inconsistent with national policy as it is with national justice.

SPEECH

ON MOVING FOR PAPERS RELATIVE TO

THE AFFAIRS OF PORTUGAL.

DELIVERED IN THE HOUSE OF COMMONS, ON THE 1ST OF JUNE, 1829.

MR. SPEAKER,

I think it will be scarcely necessary for any man who addresses the House from that part of it where I generally sit, to disclaim any spirit of party opposition to His Majesty's Ministers during the present session. My own conduct in dealing with the motion which I regret that it is now my painful duty to bring forward, affords, I believe I may say, a pretty fair sample of the principle and feeling which have guided all my friends in the course they have adopted since the very first day of this Session, when I intimated my intention to call public attention to the present subject. For the first two months of the session, I considered myself and my political friends as acting under a sacred and irresistible obligation not to do anything which might appear even to ruffle the surface of that hearty and complete co-operation which experience has proved to have been not more than necessary to the success of that grand healing measure* brought forward by His Majesty's Ministers, — that measure which I trust and believe will be

* The Bill for removing the Roman Catholic disabilities.

found the most beneficent ever adopted by Parliament since the period when the happy settlement of a Parliamentary and constitutional crown on the House of Brunswick, not only preserved the constitution of England, but struck a death-blow against all pretensions to unbounded power and indefeasible title throughout the world. I cannot now throw off the feelings that actuated me in the course of the contest by means of which this great measure has been effected. I cannot so soon forget that I have fought by the side of the Gentlemen opposite for the attainment of that end. Such are my feelings upon the present occasion, that while I will endeavour to discharge my duty, as I feel no hostility, so I shall assume no appearance of acrimony. At the same time, I trust my conduct will be found to be at an immeasurable distance from that lukewarmness, which, on a question of national honour, and in the cause of the defenceless, I should hold to be aggravated treachery. I am influenced by a solicitude that the councils of England should be and should seem unspotted, not only at home, but in the eye of the people as well as the rulers of Europe, — by a desire for an explanation of measures which have ended in plunging our most ancient ally into the lowest depths of degradation, — by a warm and therefore jealous regard to national honour, which, in my judgment, consists still more in not doing or abetting, or approaching, or conniving at wrong to others, than in the spirit never tamely to brook wrong done to ourselves.

I hold it, Sir, as a general principle to be exceedingly beneficial and wholesome, that the attention of the House should be sometimes drawn to the state of our foreign relations: and this for the satisfaction of the people of England;—in the first place, in order to assure them that proper care is taken for the maintenance of peace and security;—above all, to convince them that care is taken of the national honour, the best, and indeed only sufficient guard of that peace.

and security. I regard such discussions as acts of courtesy due to our fellow-members of the great commonwealth of European states; more particularly now that some of them are bound to us by kindred ties of liberty, and by the possession of institutions similar to our own. Two of our neighbouring states,—one our closest and most congenial ally,—the other, in times less happy, our most illustrious antagonist, but in times to come our most illustrious rival—have adopted our English institutions of limited monarchy and representative assemblies: may they consolidate and perpetuate their wise alliance between authority and freedom! The occasional discussions of Foreign Policy in such assemblies will, I believe, in spite of cross accidents and intemperate individuals, prove on the whole and in the long-run, favourable to good-will and good understanding between nations, by gradually softening prejudices, by leading to public and satisfactory explanations of ambiguous acts, and even by affording a timely vent to jealousies and resentments. They will, I am persuaded, root more deeply that strong and growing passion for peace, which, whatever may be the projects or intrigues of Cabinets, is daily spreading in the hearts of European nations, and which, let me add, is the best legacy bequeathed to us by the fierce wars which have desolated Europe from Copenhagen to Cadiz. They will foster this useful disposition, through the most generous sentiments of human nature, instead of attempting to attain the same end by underrating the resources or magnifying the difficulties of any single country, at a moment when distress is felt by all:—attempts more likely to rouse and provoke the just sense of national dignity which belongs to great and gallant nations, than to check their boldness or to damp their spirit.

If any thing was wanting to strengthen my passion for peace, it would draw new vigour from the dissuasive against war which I heard fall with such weight

from the lips of him*, of whom alone in the two thousand years that have passed since Scipio defeated Hannibal at Zama, it can be said, that in a single battle he overthrew the greatest of commanders. I thought, at the moment, of verses written and sometimes quoted for other purposes, but characteristic of a dissuasive, which derived its weight from so many victories, and of the awful lesson taught by the fate of his mighty antagonist:—

> "Si admoveris ora,
> Cannas et Trebiam ante oculos, Thrasymenaque busta,
> Et Pauli stare ingentem miraberis umbram." †

Actuated by a passion for peace, I own that I am as jealous of new guarantees of foreign political arrangements, as I should be resolute in observing the old. I object to them as multiplying the chances of war. And I deprecate virtual, as well as express ones: for such engagements may be as much contracted by acts as by words. To proclaim by our measures, or our language, that the preservation of the integrity of a particular state is to be introduced as a principle into the public policy of Europe, is in truth to form a new, and, perhaps, universal, even if only a virtual, guarantee. I will not affect to conceal that I allude to our peculiarly objectionable guarantee of the Ottoman empire.‡ I cannot see the justice of a policy, which would doom to perpetual barbarism and barrenness the eastern and southern shores of the Mediterranean,—the fair and famous lands which wind from the Euxine to the Atlantic. I recoil from thus riveting the Turkish yoke on the neck of the Christian nations of Asia Minor, of Me-

* Alluding to a passage contained in a speech of the Duke of Wellington on the Catholic Relief Bill. — Ed.

† Pharsalia, lib. vii. — Ed.

‡ Which formed part of the basis of the arrangements for liberating Greece. — Ed.

sopotamia, of Syria, and of Egypt; encouraged as they are on the one hand to hope for deliverance by the example of Greece, and sure that the barbarians will be provoked, by the same example, to maltreat them with tenfold cruelty. It is in vain to distinguish in this case between a guarantee against foreign enemies, and one against internal revolt. If all the Powers of Europe be pledged by their acts to protect the Turkish territory from invasion, the unhappy Christians of the East must look on all as enemies; while the Turk, relieved from all foreign fear, is at perfect liberty to tyrannise over his slaves. The Christians must despair, not only of aid, but even of good-will, from states whose interest it will become, that a Government which they are bound to shield from abroad should be undisturbed at home. Such a guarantee cannot be long enforced; it will shortly give rise to the very dangers against which it is intended to guard. The issue will assuredly, in no long time, be, that the great military Powers of the neighbourhood, when they come to the brink of war with each other, will recur to their ancient secret of avoiding a quarrel, by fairly cutting up the prey that lies at their feet. They will smile at the credulity of those more distant states, whose strength, however great, is neither of the kind, nor within the distance, which would enable them to prevent the partition. But of this, perhaps, too much.

The case of Portugal touches us more nearly. It is that of a country connected with England by treaty for four hundred and fifty years, without the interruption of a single day's coldness,—with which we have been connected by a treaty of guarantee for more than a century, without ever having been drawn into war, or exposed to the danger of it,—which, on the other hand, for her steadfast faith to England, has been three times invaded,—in 1760, in 1801, and in 1807,—and the soldiers of which have fought for European independence, when it was maintained by our most

renowned captains against Louis XIV. and Napoleon. It is a connexion which in length and intimacy the history of mankind cannot match. All other nations have learnt to regard our ascendant, and their attachment, as two of the elements of the European system. May I venture to add, that Portugal preceded us, though but for a short period, in the command of the sea, and that it is the country of the greatest poet who has employed his genius in celebrating nautical enterprise?

Such is the country which has fallen under the yoke of an usurper, whose private crimes rather remind us of the age of Commodus and Caracalla, than of the level mediocrity of civilised vice, — who appears before the whole world with the deep brand on his brow of a pardon from his king and father for a parricide rebellion, — who has waded to the throne through a succession of frauds, falsehoods, and perjuries, for which any man amenable to the law would have suffered the most disgraceful, — if not the last punishment. Meanwhile the lawful sovereign, Donna Maria II., received by His Majesty with parental kindness, — by the British nation with the interest due to her age, and sex, and royal dignity, — solemnly recognised by the British Government as Queen of Portugal, — whom all the great Powers of Europe once co-operated to place on her throne, continues still to be an exile; though the very acts by which she is unlawfully dispossessed are outrages and indignities of the highest nature against these Powers themselves.

His Majesty has twice told his Parliament that he has been compelled, by this alike perfidious and insolent usurpation, to break off all diplomatic intercourse with Portugal. Europe has tried the Usurper. Europe is determined that under his sway the usual relations of amity and courtesy cannot be kept up with a once illustrious and still respectable nation. So strong a mark of the displeasure of all European

rulers has never yet been set on any country in time of peace. It would be a reflection on them, to doubt that they have been in some measure influenced by those unconfuted—I might say, uncontradicted—charges of monstrous crimes which hang over the head of the Usurper. His crimes, public and private, have brought on her this unparalleled dishonour. Never before were the crimes of a ruler the avowed and sufficient ground of so severe a visitation on a people. It is, therefore, my public duty to state them here; and I cannot do so in soft words, without injustice to Portugal and disgrace to myself. In a case touching our national honour, in relation to our conduct towards a feeble ally, and to the unmatched ignominy which has now befallen her, I must use the utmost frankness of speech.

I must inquire what are the causes of this fatal issue? Has the fluctuation of British policy had any part in it? Can we safely say that we have acted not merely with literal fidelity to engagements, but with generous support to those who risked all in reliance on us,—with consistent friendship towards a people who put their trust in us,—with liberal good faith to a monarch whom we acknowledge as lawful, and who has taken irretrievable steps in consequence of our apparent encouragement? The motion with which I shall conclude, will be for an address to obtain answers to these important questions, by the production of the principal despatches and documents relating to Portuguese affairs, from the summer of 1826 to the present moment; whether originating at London, at Lisbon, at Vienna, at Rio Janeiro, or at Terceira.

As a ground for such a motion, I am obliged, Sir, to state at some length, though as shortly as I can, the events on which these documents may throw the needful light. In this statement I shall first lighten my burden by throwing overboard the pretended claim of Miguel to the crown, under I know not what

ancient laws: not that I have not examined it *, and found it to be altogether absurd; but because he renounced it by repeated oaths, — because all the Powers of Europe recognised another settlement of the Portuguese crown, and took measures, though inadequate ones, to carry it into effect, — because His Majesty has withdrawn his minister from Lisbon, in acknowledgment of Donna Maria's right. I content myself with these authorities, as, in this place, indisputable. In the performance of my duty, I shall have to relate facts which I have heard from high authority, and to quote copies, which I consider as accurate, of various despatches and minutes. I believe the truth of what I shall relate, and the correctness of what I shall quote. I shall be corrected wheresoever I may chance to be misinformed. I owe no part of my intelligence to any breach of duty. The House will not wonder that many copies of documents interesting to multitudes of men, in the disastrous situation of some of the parties, should have been scattered over Europe.

I pass over the revolution of 1820, when a democratical monarchy was adopted. The principles of its best adherents have been modified by the reform of 1826: its basest leaders are now among the tools of the Usurper, while he proscribes the loyal sufferers of that period. I mention only in passing the Treaty of Rio Janeiro, completed in August, 1825, by which Brazil was separated from Portugal, under the mediation of England and Austria; — the result of negotiations in which Sir Charles Stuart (now Lord Stuart de Rothesay), one of the most distinguished of British diplomatists, acted as the plenipotentiary of Portugal. In the following spring, John VI., the late King of Portugal, died, after having, in the ratification of the treaty, acknowledged Dom Pedro as his heir. It was a necessary interpretation of that treaty that the lat-

* See the Case of Donna Maria. — Ed.

ter was not to continue King of Portugal in his own right, but only for the purpose of separating and settling the two kingdoms. He held Portugal in trust, and only till he had discharged this trust: for that purpose some time was necessary; the duration could not be precisely defined: but it was sufficient that there should appear no symptom of bad faith, — no appearance of an intention to hold it longer than the purposes of the trust absolutely required. For these purposes, and for that time, he was as much King of Portugal as his forefathers; and as such was recognised by all Europe, with the exception of Spain, which did not throw the discredit of her recognition on his title.

To effect the separation safely and beneficially for both countries, Dom Pedro abdicated the crown of Portugal in favour of his daughter Donna Maria, who was to be affianced to Dom Miguel, on condition of his swearing to observe the Constitution at the same time bestowed by Dom Pedro on the Portuguese nation. With whatever pangs he thus sacrificed his daughter, it must be owned that no arrangement seemed more likely to secure peace between the parties who divided Portugal, than the union of the chief of the Absolutists with a princess who became the hope of the Constitutionalists. Various opinions may be formed of the fitness of Portugal for a free constitution; but no one can doubt that the foundations of tranquillity could be laid no otherwise than in the security of each party from being oppressed by the other, — that a fair distribution of political power between them was the only means of shielding either, — and that no such distribution could be effected without a constitution comprehending all classes and parties.

In the month of June, 1826, this Constitution was brought to Lisbon by the same eminent English minister who had gone from that city to Brazil as the plenipotentiary of John VI., and who now returned

from Rio to the Tagus, as the bearer of the Constitutional Charter granted by Dom Pedro. I do not meddle with the rumours of dissatisfaction then produced by that Minister's visit to Lisbon. It is easier to censure at a distance, than to decide on a pressing emergency. It doubtless appeared of the utmost importance to Sir Charles Stuart, that the uncertainty of the Portuguese nation as to their form of government should not be continued; and that he, a messenger of peace, should hasten with its tidings. No one can doubt that the people of Portugal received such a boon, by such a bearer, as a mark of the favourable disposition of the British Government towards the Constitution. It is matter of notoriety that many of the Nobility were encouraged by this seeming approbation of Great Britain publicly to espouse it in a manner which they might and would otherwise have considered as an useless sacrifice of their own safety. Their constitutional principles, however sincere, required no such devotion, without those reasonable hopes of success, which every mark of the favour of England strongly tended to inspire. No diplomatic disavowal (a proceeding so apt to be considered as merely formal) could, even if it were public (which it was not), undo the impression made by this act of Sir Charles Stuart. No avowal, however public, made six months after, of an intention to abstain from all interference in intestine divisions, could replace the Portuguese in their first situation: they had taken irrevocable steps, and cut themselves off from all retreat.

But this is not all. Unless I be misinformed by those who cannot deceive, and are most unlikely to be deceived, the promulgation of the Constitution was suspended at Lisbon till the Regency could receive advice from His Majesty. The delay lasted at least a fortnight. The advice given was to put the Charter in force. I do not know the terms of this opinion, or the limitations and conditions which might

accompany it; nor does it import to my reasoning that I should. The great practical fact that it was asked for, was sure to be published, as it instantly was, through all the societies of Lisbon. The small accessories were either likely to be concealed, or sure to be disregarded, by eager and ardent reporters. In the rapid succession of governments which then appeared at Lisbon, it could not fail to be known to every man of information, and spread with the usual exaggerations among the multitude, that Great Britain had declared for the Constitution. Let it not be thought that I mention these acts to blame them. They were the good offices of an ally. Friendly advice is not undue interference: it involves no encroachment on independence, — no departure from neutrality. "Strict neutrality consists merely, first, in abstaining from all part in the operations of war; and, secondly, in equally allowing or forbidding the supply of instruments of war to both parties."* — Neutrality does not imply indifference. It requires no detestable impartiality between right or wrong. It consists in an abstinence from certain outward acts, well defined by international law, — leaving the heart entirely free, and the hands at liberty, where they are not visibly bound. We violated no neutrality in execrating the sale of Corsica, — in loudly crying out against the partition of Poland. Neutrality did not prevent Mr. Canning from almost praying in this House for the defeat of the French invasion of Spain. No war with France, or Austria, or Prussia, or Russia, ensued. Neutrality is not a point, but a line extending from the camp of one party to the camp of his opponent. It comprehends a great variety of shades and degrees of good and ill opinion: so that there is scope within its technical limits for a change from the most friendly to the most adverse policy, as long as arms are not taken up.

* Martens, Précis du Droit des Gens, p. 524.

Soon after, another encouragement of an extraordinary nature presented itself to this unfortunate people, the atrocious peculiarities of which throw into shade its connexion, through subsequent occurrences, with the acts of Great Britain. On the 30th October following, Dom Miguel, at Vienna, first swore to the Constitution, and was consequently affianced by the Pope's Nuncio, in the presence of the Imperial Ministers, to Donna Maria, whom he then solemnly acknowledged as Queen of Portugal. This was the first of his perjuries. It was a deliberate one, for it depended on the issue of a Papal dispensation, which required time and many formalities. The falsehood had every aggravation that can arise from the quality of the witnesses, the importance of the object which it secured to him, and the reliance which he desired should be placed on it by this country. At the same moment, a rebellion, abetted by Spain, broke out in his name, which still he publicly disavowed. Two months more, and the perfidy of Spain became apparent: the English troops were landed in Portugal; the rebels were driven from the territory of our ancient friends, by one of the most wise, honourable, vigorous, and brilliant strokes of policy ever struck by England. Mr. Canning delivered Portugal, and thus paid the debt which we owed for four centuries of constant faith and friendship, — for three invasions and a conquest endured in our cause. Still we were neutral: but what Portuguese could doubt that the nation which had scattered the Absolutists was friendly to the Constitution? No technical rule was broken; but new encouragement was unavoidably held out. These repeated incentives to a nation's hopes, — these informal but most effective, and therefore most binding acts, are those on which I lay the stress of this argument, still more than on federal and diplomatic proceedings.

There occurred in the following year a transaction between the Governments, more nearly approaching

the nature of a treaty, and which, in my humble judgment, partakes much of its nature, and imposes its equitable and honourable duties. I now come to the conferences of Vienna in autumn, 1827. On the 3d of July in that year, Dom Pedro had issued an edict by which he approached more nearly to an abdication of the crown, and nominated Dom Miguel lieutenant of the kingdom. This decree had been enforced by letters of the same date, — one to Dom Miguel, commanding and requiring him to execute the office in conformity with the Constitution, and others to his allies, the Emperor of Austria and the King of Great Britain, committing to them as it were the execution of his decree, and beseeching them to take such measures as should render the Constitutional Charter the fundamental law of the Portuguese monarchy.* On these conditions, for this purpose he prayed for aid in the establishment of Miguel. In consequence of this decree, measures had been immediately taken for a ministerial conference at Vienna, to concert the means of its execution.

And here, Sir, I must mention one of them, as of the utmost importance to both branches of my argument; — as an encouragement to the Portuguese, and as a virtual engagement with Dom Pedro: and I entreat the House to bear in mind the character of the transactions of which I am now to speak, as it affects both these important points. Count Villa Real, at that time in London, was appointed, I know not by whom, to act as a Portuguese minister at Vienna. Under colour of want of time to consult the Princess Regent at Lisbon, unsigned papers of advice, amounting in effect to instructions, were put into his hands by an Austrian and an English minister. In these

* "Je supplie V. M. de m'aider non seulement à faire que cette régence entre promptement en fonctions, mais encore à effectuer que la Charte Constitutionelle octroyée par moi devienne la loi fondamentale du Royaume." — Dom Pedro to the King of Great Britain, 3d July, 1827.

papers he was instructed to assure Miguel, that by observing the Constitutional Charter, he would ensure the support of England. The tone and temper fit to be adopted by Miguel in conversations at Paris were pointed out. Count Villa Real was more especially instructed to urge the necessity of Miguel's return by England. "His return," it was said, "is itself an immense guarantee to the Royalists; his return through this country will be a security to the other party." Could the Nobility and people of Portugal fail to consider so active a part in the settlement of their government, as an encouragement from their ancient and powerful ally to adhere to the Constitution? Is it possible that language so remarkable should not speedily have spread among them? May not some of those before whose eyes now rises a scaffold have been enboldened to act on their opinions by encouragement which seemed so flattering?

In the month of September, 1827, when Europe and America were bewailing the death of Mr. Canning, a note was given in at Vienna by the Marquess de Rezendé, the Brazilian minister at that court, containing the edict and letters of the 3d of July. The ministers of Austria, England, Portugal, and Brazil, assembled there on the 18th of October. They began by taking the Brazilian note and the documents which accompanied it, as the basis of their proceedings. It was thus acknowledged, solemnly, that Dom Pedro's title was unimpaired, and his settlement of the constitutional crown legitimate. They thus also accepted the execution of the trust on the conditions under which he committed it to them.

It appears from a despatch of Prince Metternich to Prince Esterhazy (the copy of which was entered on the minutes of the conference), that Prince Metternich immediately proceeded to dispose Dom Miguel towards a prudent and obedient course. He represented to him that Dom Pedro had required "the effectual aid of Austria to engage the Infant to submit with entire

deference to the orders of his brother;" and he added, that "the Emperor of Austria could, in no case, consent to his return through Spain, which would be contrary to the wishes of Dom Pedro, and to the opinion of all the Governments of Europe." These representations were vain; the good offices of an August Person were interposed:—Miguel continued inflexible. But in an interview, where, if there had been any truth in him, he must have uttered it, he spontaneously added, that "he was determined to maintain in Portugal the Charter to which he had sworn, and that His Majesty might be at ease in that respect." This voluntary falsehood,—this daring allusion to his oath, amounting, virtually, to a repetition of it,—this promise made at a moment when obstinacy in other respects gave it a fraudulent credit, deserves to be numbered among the most signal of the perjuries by which he deluded his subjects, and insulted all European sovereigns.

Prince Metternich, after having consulted Sir Henry Wellesley (now Lord Cowley) and the other Ministers, "on the means of conquering the resistance of the Infant," determined, conformably (be it remembered), with the concurrence of all, to have a last and categorical explanation with that Prince. "I declared to him," says Prince Metternich, "without reserve, that, in his position, he had only to choose between immediately going to England on his way to Portugal, or waiting at Vienna the further determination of Dom Pedro, to whom the Courts of London (be it not forgotten) and Vienna would communicate the motives which had induced the Infant not immediately to obey his brother's orders." Prince Metternich describes the instantaneous effect of this menace of further imprisonment with the elaborate softness of a courtier and a diplomatist. "I was not slow in perceiving that I had the happiness to make a profound impression on the mind of the Infant. After some moments of reflection, he at last yielded to the

counsels of friendship and of reason." He owned "that he dreaded a return through England, because he knew that there were strong prejudices against him in that country, and he feared a bad reception there." He did justice to the people of England;—his conscious guilt foresaw their just indignation: but he could not be expected to comprehend those higher and more generous qualities which disposed them to forget his former crimes, in the hope that he was about to atone for them by the establishment of liberty. Nothing in their own nature taught them that it was possible for a being in human shape to employ the solemn promises which deluded them as the means of perpetrating new and more atrocious crimes.

Here, Sir, I must pause. Prince Metternich, with the concurrence of the English Minister, announced to Miguel, that if he did not immediately return to Portugal by way of England, he must remain at Vienna until Dom Pedro's further pleasure should be known. Reflections here crowd on the mind. Miguel had before agreed to maintain the Charter: had he hesitated on that subject, it is evident that the language used to him must have been still more categorical. No doubt is hinted on either side of his brother's sovereign authority: the whole proceeding implies it; and in many of its parts it is expressly affirmed. He is to be detained at Vienna, if he does not consent to go through England, in order to persuade the whole Portuguese nation of his sincerity, and to hold out — in the already quoted words of the English Minister — "a security to the Constitutional party," or, in other language, the strongest practical assurance to them, that he was sent by Austria, and more especially by England, to exercise the Regency, on condition of adhering to the Constitution. Whence did this right of imprisonment arise? I cannot question it without charging a threat of false imprisonment on all the great Powers. It may, perhaps, be thought, if not said, that it was founded on the original commitment

by John VI. for rebellion and meditated parricide, and on the, perhaps, too lenient commutation of it into a sentence of transportation to Vienna. The pardon and enlargement granted by Dom Pedro were, on that supposition, conditional, and could not be earned without the fulfilment of all the conditions. Miguel's escape from custody must, then, be regarded as effected by fraud; and those to whom his person was entrusted by Dom Pedro, seem to me to have been bound, by their trust, to do all that was necessary to repair the evil consequence of his enlargement to the King and people of Portugal. But the more natural supposition is, that they undertook the trust, the custody, and the conditional liberation, in consequence of the application of their ally, the lawful Sovereign of Portugal, and for the public object of preserving the quiet of that kingdom, and with it the peace of Europe and the secure tranquillity of their own dominions. Did they not thereby contract a federal obligation with Dom Pedro to complete their work, and, more especially, to take care that Miguel should not immediately employ the liberty, the sanction, the moral aid, which they had given him, for the overthrow of the fundamental laws which they too easily trusted that he would observe his promises and oaths to uphold? When did this duty cease? Was it not fully as binding on the banks of the Tagus as on those of the Danube? If, in the fulfilment of this obligation, they had a right to imprison him at Vienna, because he would not allay the suspicions of the Constitutional party by returning through England, is it possible to contend that they were not bound to require and demand at Lisbon, that he should instantly desist from his open overthrow of the Charter?

I do not enter into any technical distinctions between a protocol and a treaty. I consider the protocol as the minutes of conferences, in which the parties verbally agreed on certain important measures, which,

being afterwards acted upon by others, became conclusively binding, in faith, honour, and conscience, on themselves. In consequence of these conferences, Dom Miguel, on the 19th of October, wrote letters to his brother, His Britannic Majesty, and Her Royal Highness the Regent of Portugal. In the two former, he solemnly re-affirmed his determination to maintain the charter "granted by Dom Pedro;" and, in the last, he more fully assures his sister his unshaken purpose "to maintain, and cause to be observed, the laws and institutions legally granted by our august brother, and which we have all sworn to maintain; and I desire that you should give to this solemn declaration the necessary publicity." On the faith of these declarations, he was suffered to leave Vienna. The Powers who thus enlarged him taught the world, by this act, that they believed him. They lent him their credit, and became vouchers for his fidelity. On the faith of these declarations, the King and people of England received him with kindness, and forgot the criminal, to hail the first Constitutional King of emancipated Portugal. On the same faith, the English ambassadors attended him; and the English flag, which sanctioned his return, proclaimed to the Constitutionalists, that they might lay aside their fears for liberty and their reasonable apprehensions for themselves. The British ministers, in their instructions to Count Villa Real, had expressly declared, that his return through England was a great security to the Constitutional party. Facts had loudly spoken the same language; but the very words of the British Minister must inevitably have resounded through Portugal—lulling vigilance, seeming to dispense with caution, and tending to extinguish the blackest suspicions. This is not all; Count Villa Flor, then a minister, who knew his man, on the first rumours of Miguel's return, obtained the appointment of Ambassador to Paris, that he might not be caught by the wolf in his den. It was apprehended that such a step

would give general alarm:—he was prevailed upon to remain, by letters from Vienna, with assurances of Miguel's good dispositions, which were not unknown to the British Ministers at Vienna; and he continued in office a living pledge from the two Powers to the whole Portuguese people, that their Constitution was to be preserved. How many irrevocable acts were done,—how many dungeons were crowded,—how many deaths were braved,—how many were suffered —from faith in perfidious assurances, accredited by the apparent sanction of two deluded and abused Courts! How can these Courts be released from the duty of repairing the evil which their credulity has caused!

I shall say nothing of the Protocol of London of the 12th of January, 1828, except that it adopted and ratified the conferences of Vienna,—that it provided for a loan to Miguel to assist his re-establishment,—and that it was immediately transmitted to Dom Pedro, together with the Protocol of Vienna. Dom Pedro had originally besought the aid of the Powers to secure the Constitution. They did not refuse it;—they did not make any reservations or limitations respecting it: on the contrary, they took the most decisive measures on the principle of his proposition. So implicitly did Dom Pedro rely on them that, in spite of all threatening symptoms of danger, he has sent his daughter to Europe;—a step from which he cannot recede, without betraying his own dignity, and seeming to weaken her claims; and which has proved a fruitful source of embarrassment, vexation, and humiliation to himself and his most faithful councillors. By this decisive measure, he has placed his loyal subjects in a more lasting and irreconcileable state of hostility with those who have mastered their country, and has rendered compromise under better rulers more difficult.

Under all these circumstances, Sir, I cannot doubt that the Mediating Powers have acquired a right im-

peratively to require that Miguel shall renounce that authority which by fraud and falsehood he has obtained from them the means of usurping. They are bound to exercise that right by a sacred duty towards Dom Pedro, who has intrusted them with the conditional establishment of the Regency, and the people of Portugal, with whom their obligation of honour is the more inviolable, because it must be informal. I shall be sorry to hear that such duties are to be distinguished, by the first Powers of Christendom, from the most strictly literal obligations of a treaty.

On the 28th of February, Miguel landed at Lisbon, accompanied by an English ambassador, who showed as much sagacity and firmness as were perhaps ever combined in such circumstances. The Cortes met to receive the oaths of the Regent to the Emperor and the Constitution. A scene then passed which is the most dastardly of all his perjuries,—the basest evasion that could be devised by a cowardly and immoral superstition. He acted as if he were taking the oaths, slurring them over in apparent hurry, and muttering inarticulately, instead of uttering their words. A Prince of one of the most illustrious of Royal Houses, at the moment of undertaking the sacred duties of supreme magistracy, in the presence of the representatives of the nation, and of the ministers of all civilised states, had recourse to the lowest of the knavish tricks formerly said (but I hope calumniously) to have been practised by miscreants at the Old Bailey, who by bringing their lips so near the book without kissing it as to deceive the spectator, satisfied their own base superstition, and dared to hope that they could deceive the Searcher of Hearts.

I shall not follow him through the steps of his usurpation. His designs were soon perceived: they were so evident that Sir Frederic Lamb, with equal sense and spirit, refused to land the money raised by loan, and sent it back to this country. They might have been then defeated by the Loyalists: but an

insurmountable obstacle presented itself. The British troops were instructed to abstain from interference in domestic dissensions:—there was one exception, and it was in favour of the basest man in Portugal. The Loyalists had the means of sending Miguel to his too merciful brother in Brazil: they were bound by their allegiance to prevent his rebellion; and loyalty and liberty alike required it. The right was not doubted by the British authorities: but they were compelled to say that the general instruction to protect the Royal Family would oblige them to protect Miguel against attack. Our troops remained long enough to give him time to displace all faithful officers, and to fill the garrison with rebels; while by the help of monks and bribes, he stirred up the vilest rabble to a "sedition for slavery." When his designs were ripe for execution, we delivered him from all shadow of restraint by recalling our troops to England. I do not mention this circumstance as matter of blame, but of the deepest regret. It is too certain, that if they had left Lisbon three months sooner, or remained there three months longer, in either case Portugal would have been saved. This consequence, however unintended, surely imposes on us the duty of showing much more than ordinary consideration towards those who were destroyed by the effect of our measures. The form in which the blockade of Oporto was announced did not repair this misfortune. I have never yet heard why we did not speak of "the persons exercising the power of government," instead of calling Miguel "Prince Regent,"—a title which he had forfeited, and indeed had himself rejected. Nor do I see why in the singular case of two parties,—one falsely, the other truly,—professing to act on behalf of Dom Pedro, both might not have been impartially forbidden to exercise belligerent rights at sea until his pleasure was made known. The fatal events which have followed are, I have serious reason to believe, no proof of the state of general opinion in Portugal. A ma-

jority of the higher nobility, with almost all the considerable inhabitants of towns, were and are still well affected. The clergy, the lower gentry, and the rabble, were, but I believe are not now, adverse. The enemies of the Constitution were the same classes who opposed our own Revolution for fourscore years. Accidents, unusually unfortunate, deprived the Oporto army of its commanders. Had they disregarded this obstacle, and immediately advanced from Coimbra, it is the opinion of the most impartial and intelligent persons then at Lisbon, that they would have succeeded without a blow. It is certain that the Usurper and his mother had prepared for a flight to Madrid, and, after the fatal delay at Coimbra, were with difficulty persuaded to adopt measures of courage. As soon as Miguel assumed the title of King, all the Foreign Ministers fled from Lisbon: a nation which ceased to resist such a tyrant was deemed unworthy of remaining a member of the European community. The brand of exclusion was fixed, which is not yet withdrawn. But, in the meantime, the delay at Coimbra, the strength thence gained by the Usurper, and the discouragement spread by the retreat of the Loyalists, led to the fall of Oporto, and compelled its loyal garrison, with many other faithful subjects, to leave their dishonoured country. They were doubly honoured by the barbarous inhospitality of Spain on the one hand, and on the other by the sympathy of France and of England.

At this point, Sir, I must deviate a moment from my line, to consider the very peculiar state of our diplomatic intercourse with Dom Pedro and Donna Maria, in relation to the crown of Portugal. All diplomatic intercourse with the Usurper in possession of it was broken off. There were three ministers from the legitimate sovereigns of the House of Braganza in London: — the Marquess Palmella, ambassador from Portugal, who considered himself in that character as the Minister of Donna Maria, the Queen

acknowledged by us, — the Marquess Barbacena, the confidential adviser appointed by Dom Pedro to guide the infant Queen, — and the Viscount Itabayana, the recognised minister from that monarch as Emperor of Brazil. They all negotiated, or attempted to negotiate, with us. The Marquess Palmella was told that the success of the usurpation left him no Portuguese interests to protect, — that his occupation was gone. The Viscount Itabayana was repelled as being merely the minister from Brazil, a country finally separated from Portugal. The Marquess Barbacena was positively apprised that we did not recognise the right of Dom Pedro to interfere as head of the House of Brazil, or as international guardian of his daughter. By some ingenious stratagem each was excluded, or driven to negotiate in an inferior and unacknowledged character. This policy seems to me very like what used to be called in the courts, "sharp practice." It is not free from all appearance of international special pleading, which seems to me the less commendable, because the Government were neither guided nor hampered by precedent. It is a case, I will venture to say, without parallel. The result was, that an infant Queen, recognised as legitimate, treated with personal honour and kindness, is left without a guardian to guide her, or a minister to act for her. Such was the result of our international subtleties and diplomatic punctilios!

To avoid such a practical absurdity, nothing seemed more simple than to hold that nature and necessity, with the entire absence of any other qualified person, had vested in Dom Pedro the guardianship of his Royal daughter, for the purpose of executing the separation of the two countries, and the abdication of the Portuguese crown. His character would have had some analogy to that of the guardian named in a court of justice to a minor party in a law-suit. Ingenuity would, I think, have been better employed in discovering the legal analogies, or political reasons, which

are favourable to this natural and convenient doctrine. Even the rejection of the minister of a deposed sovereign has not always been rigidly enforced. Queen Elizabeth's virtues were not indulgent; nor did her treatment of the Queen of Scots do honour to her character: yet she continued for years after the deposition of Mary to treat with Bishop Leslie; and he was not pronounced to have forfeited the privileges of an ambassador till he was detected in a treasonable conspiracy.

A negotiation under the disadvantage of an unacknowledged character was, however, carried on by the Marquess Palmella, and the Marquess Barbacena, between the months of November and February last, in which they claimed the aid of Great Britain against the Usurper, by virtue of the ancient treaties, and of the conferences at Vienna. Perhaps I must allow that the first claim could not in strictness be maintained:—perhaps this case was not in the bond. But I have already stated my reasons for considering the conferences at Vienna, the measures concerted there, and the acts done on their faith, as equivalent to an engagement on the part of Austria and England with Dom Pedro. At all events, this series of treaties for four hundred and fifty years, from Edward III. to George IV.—longer and more uninterrupted than any other in history,—containing many articles closely approaching the nature of a guarantee, followed as it has been by the strong marks of favour showed by England to the Constitution, and by the principles and plan adopted by England and Austria (with the approbation of France, Russia, and Prussia), at Vienna, altogether hold out the strongest virtual encouragement to the Constitutionalists. How could Portugal believe that those who threatened to imprison Miguel at Vienna, would hesitate about hurling him from an usurped throne at Lisbon? How could the Portuguese nation suppose that, in a case where Austria and England had the concurrence of all the great

Powers, they should be deterred from doing justice by a fear of war? How could they imagine that the rule of non-interference, — violated against Spain, — violated against Naples, — violated against Piedmont, — more honourably violated for Greece, but against Turkey, — should be held sacred only, when it served to screen the armies and guard the usurpation of Miguel? Perhaps their confidence might have been strengthened by what they must think the obvious policy of the two Courts. It does seem to me that they might have commanded Miguel to quit his prey (for war is ridiculous) as a mere act of self-defence. Ferdinand VII. is doubtless an able preacher of republicanism; but he is surpassed in this particular by Miguel. I cannot think it a safe policy to allow the performance of an experiment to determine how low the kingly character may sink in the Pyrenean Peninsula, without abating its estimation in the rest of Europe. Kings are sometimes the most formidable of all enemies to royalty.

The issue of our conduct towards Portugal for the last eighteen months is, in point of policy, astonishing. We are now bound to defend a country of which we have made all the inhabitants our enemies. It is needless to speak of former divisions: there are now only two parties there. The Absolutists hate us: they detest the country of juries and of Parliaments, — the native land of Canning, — the source from which their Constitution seemed to come, — the model which has excited the love of liberty throughout the world. No half-measures, however cruel to their opponents, can allay their hatred. If you doubt, look at their treatment of British subjects, which I consider chiefly important, as indicating their deep-rooted and irreconcileable malignity to us. The very name of an Englishman is with them that of a jacobin and an atheist. Look at their treatment of the city of Oporto and of the island of Madeira, which may be almost considered as English colonies. If this hatred was in any degree excited by the feelings of the English inhabitants

towards them, from what could such feelings spring but from a knowledge of the execrable character of the ruling faction? Can they ever forgive us for degrading their Government and disgracing their minion, by an exclusion from international intercourse more rigorous than any incurred under a Papal interdict of the fourteenth century? Their trust alone is in the Spanish Apostolicals. The Constitutionalists, who had absorbed and softened all the more popular parties of the former period, no longer trust us. They consider us as having incited them to resistance, and as having afterwards abandoned them to their fate. They do not distinguish between treaties and protocols,—between one sort of guarantee and another. They view us, more simply, as friends who have ruined them. Their trust alone is in Constitutional France. Even those who think, perhaps justly, that the political value of Portugal to us is unspeakably diminished by the measures which we have happily taken for the security of Ireland, cannot reasonably expect that any nation of the second order, which sees the fate of Portugal, will feel assurance of safety from the protection of England.

If we persist in an unfriendly neutrality, it is absurd voluntarily to continue to submit to obligations from which we may justly release ourselves. For undoubtedly a government so covered with crimes, so disgraced by Europe as that of Miguel, is a new source of danger, not contemplated in the treaties of alliance and guarantee. If Mr. Canning, with reason, held that an alliance of Portugal with the Spanish Revolutionists would, on that principle, release us from our obligations, it cannot be doubted that by the standing infamy of submission to the present Government, she well deserves to forfeit all remaining claims to our protection.

Notwithstanding the failure of the negotiations to obtain our aid as an ally, I believe that others have been carried on, and probably are not yet closed, in

London and at Rio Janeiro. It has been proposed, by the Mediating Powers, to Dom Pedro, to complete the marriage, to be silent on the Constitution, — but to obtain an universal amnesty. I cannot wonder at Dom Pedro's rejection of conditions, one of which only can be effectual, — that which imposes on his daughter the worst husband in Europe. What wonder that he should reject a proposal to put the life of a Royal infant under the care of murderers, — to join her youthful hand, at the altar, with one embrued in the blood of her most faithful friends! As for the other conditions, what amnesty can be expected from the wolf of Oporto? What imaginable security can be devised for an amnesty, unless the vanquished party be shielded by some political privileges? Yet I rejoice that these negotiations have not closed, — that the two Powers have adopted the decisive principle of stipulating what Miguel must do, without consulting him; and that, whether from the generous feelings of a Royal mind at home, or from the spirit of constitutional liberty in the greatest of foreign countries, or from both these causes, the negotiations have assumed a more amicable tone. I do not wonder that Dom Pedro, after having protested against the rebellion of his brother, and the coldness of his friends, should indignantly give orders for the return of the young Queen, while he provides for the assertion of her rights, by the establishment of a regency in Europe. I am well pleased however to learn, that the Mediating Powers have advised his ministers to suspend the execution of his commands till he shall be acquainted with the present state of affairs. The monstrous marriage is, at all events, I trust, for ever abandoned. As long as a negotiation is on foot respecting the general question, I shall not despair of our ancient Ally.

Sir, I must own, that there is no circumstance in this case, which, taken singly, I so deeply regret as the late unhappy affair of Terceira. The Portuguese

troops and Royalists who landed in England, had been stationed, after some time, at Plymouth, where their exemplary conduct gained the most public and general marks of the esteem of the inhabitants. In the month of November, a proposition to disperse them in the towns and villages of the adjacent counties, without their officers, was made by the British Government. Far be it from me to question the right of His Majesty to disperse all military bodies in his dominions, and to prevent this country from being used as an arsenal or port of equipment by one belligerent against another, — even in cases where, as in the present, it cannot be said that the assemblage was dangerous to the peace of this kingdom, or menacing to the safety of any other. I admit, in their fullest extent, the rights and duties of neutral states. Yet the dispersion of these troops, without their officers, could scarcely fail to discourage them, to deprive them of military spirits and habits, and to end in the utter disbanding of the feeble remains of a faithful army. The ministers of Donna Maria considered this as fatal to their hopes. An unofficial correspondence was carried on from the end of November to the beginning of January on the subject, between the Duke of Wellington and the Marquess Palmella, — a man of whom I cannot help saying, that he is perhaps the individual by whom his country is most favourably known to foreign nations, — that, highly esteemed as he is among statesmen for his share in the greatest affairs of Europe for the last sixteen years, he is not less valued by his friends for his amiable character and various accomplishments, — and that there is no one living more incapable of forgetting the severest dictates of delicacy and honour. The Marquess chose rather to send the faithful remnant of Donna Maria's troops to Brazil, than to subject them to utter annihilation. Various letters passed on the reasonableness of this dispersion, and the mode of removal, from the 20th of November to the 20th of December, in which Brazil was considered as the

destination of the troops. In a letter of the 20th of December, the Marquess Palmella, for the first time, mentioned the Island of Terceira. It had been twice before mentioned, in negotiations, by two ministers of the House of Braganza, with totally different views, which, if the course of debate should call for it, I trust I shall explain: but it was first substituted for Brazil by the Marquess Palmella on the 20th of December. I anxiously particularise the date, because it is alone sufficient to vindicate his scrupulous honour. In the month of May, some partisans of Miguel had shaken the loyalty of a part of the inhabitants: Dom Pedro and the Constitution were proclaimed on the 22nd of June; the ringleaders of the rebellion were arrested; and the lawful government was re-established. Some disturbances, however, continued, which enabled the priests to stir up a revolt in the end of September. The insurgents were again suppressed in a few days; but it was not till the 4th of December that Donna Maria was proclaimed as Queen of Portugal in conformity to the treaty of separation, to the Constitutional Charter, and to the Act of Abdication. Since that time I have now before me documents which demonstrate that her authority has been regularly exercised and acknowledged in that island, with no other disturbance than that occasioned by one or two bands of Guerillas, quickly dispersed, and without any pretence for alleging that there was in that island a disputed title, or an armed contest.

On the 20th of December, then, the Marquess Palmella informed the Duke of Wellington, that though he (the Marquess) had hitherto chosen Brazil as being the only safe, though distant, refuge for the troops, "yet, from the information which he had just received of the entire and peaceable submission of Terceira to the young Queen, and of the disappearance of the squadron sent by the actual Government of Portugal to blockade the Azores, he now intended to send her troops to that part of her dominions where she was

not only the rightful but the actual Sovereign, and for which he conceived that they might embark at Plymouth, without any infringement of the neutrality of the British territories." This letter contains the explanation of the change of destination. Unarmed troops could not have been safely sent to Terceira, nor merchant vessels either, while there were intestine divisions, or apprehensions of a blockade, or indeed till there was full and authentic information of the establishment of quiet and legitimate authority. The Marquess Palmella thought that the transportation of the troops had now become as lawful as it was obviously desirable. To remove the Queen's troops to a part of her own actual dominions, seemed to him, as I own it still seems to me, an act consistent even with the cold and stern neutrality assumed by England. Had not a Queen, acknowledged in England, and obeyed in Terceira, a perfect right to send her own soldiers home from a neutral country? If the fact of the actual return of Terceira to its allegiance be not denied and disproved, I shall be anxious to hear the reasons, to me unknown, which authorise a neutral power to forbid such a movement. It is vain to say, that Great Britain, as mediator in the Treaty of 1825, was entitled to prevent the separation of the Azores from Portugal, and their subjection to Brazil; for, on the 4th of December, Donna Maria had been proclaimed at Terceira as Queen of Portugal, in virtue of the possession of the Portuguese crown. It is vain to say that the embarcation had a hostile character; since it was immediately destined for the territory of the friendly sovereign. Beyond this point the neutral is neither bound nor intitled to enquire. It was not, as has been inconsiderately said, an expedition against the Azores. It was the movement of Portuguese troops from neutral England to obedient and loyal Terceira,—where surely the Sovereign might employ her troops in such manner as she judged right. How far is the contrary proposition to go? Should we,—

could we, as a neutral Power, have hindered Miguel from transporting those of his followers, who might be in England, to Lisbon, because they might be sent thence against the Azores? It is true, the group of islands have the generic name of the Azores: but so, —though the American islands are called the West Indies,—I presume it will not be contended that a rebellion in Barbadoes could authorise a foreign Sovereign in preventing British troops which happened to be on his territory from being despatched by his Majesty to strengthen his garrison of Jamaica. Supposing the facts which I have stated to be true, I can see no mode of impugning the inferences which I have made from them. Until I receive a satisfactory answer, I am bound to say, that I consider the prohibition of this embarcation as a breach of neutrality in favour of the Usurper.

And even, Sir, if these arguments are successfully controverted, another proposition remains, to which it is still more difficult for me to conceive the possibility of an answer. Granting that the permission of the embarcation was a breach of neutrality, which might be, and must be, prevented on British land, or in British waters, where is the proof from reason, from usage, — even from example or authority, that England was bound, or entitled, to pursue the expedition over the ocean, — to use force against them on the high seas, — most of all to levy war against them within the waters of Terceira? Where are the proofs of the existence of any such right or duty? I have searched for them in vain. Even if an example or two could be dug up, they would not affect my judgment. I desire to know where the series of examples from good times can be found which might amount to general usage, and thus constitute a part of international law. I never can consider mere general reasoning as a sufficient justification of such an act. There are many instances in which international law rejects such reasonings. For example, to allow a

passage to a belligerent through a neutral territory, is not in itself a departure from neutrality. But to fire on a friendly ship within the waters of a friendly state, for a wrong done in an English harbour, is an act which appears to me a most alarming innovation in the law of civilised war. The attack on the Spanish frigates in 1805 is probably reconcileable with the stern and odious rights of war: yet I am sure that every cool-headed and true-hearted Englishman would desire to blot the scene from the annals of Europe. Every approach towards rigour, beyond the common and well-known usage of war, is an innovation: and it must ever be deplored that we have made the first experiment of its extension beyond former usage in the case of the most ancient of our allies, in the season of her utmost need.

I shrink from enlarging on the scene which closed, — I fear for ever, — a friendship of four hundred and fifty years. On the 16th of January last, three English vessels and a Russian brig, having aboard five hundred unarmed Portuguese, attempted to enter the port of Praya, in the island of Terceira. Captain Walpole, of His Majesty's ship "Ranger," fired on two of these vessels, which had got under the guns of the forts protecting the harbour: the blood of Her Most Faithful Majesty's subjects was spilt; one soldier was killed; a peaceable passenger was dangerously wounded. I forbear to state further particulars. I hope and confidently trust that Captain Walpole will acquit himself of all negligence, — of all want of the most anxious endeavours to spare blood, and to be frugal of violence, in a proceeding where such defects would be crimes. Warmly as I rejoice in the prevalence of that spirit of liberty, and, as a consequence, of humanity, of which the triumph in France is so happy for Europe, I must own that I cannot contemplate without mortification the spectacle of the loyal Portuguese exhibiting in a French port wounds inflicted by the arms of their ancient ally, protector,

and friend. The friendship of four centuries and a half should have had a more becoming close: it should not have been extinguished in fire and blood.

I will now conclude, Sir, with the latest and perhaps the saddest incident in this tragic story of a nation's "hopes too fondly raised," perhaps, but surely "too rudely crossed." I shall not quote it as a proof of the Usurper's inhumanity; — there is no man in this House who would not say that such proofs are needless: I produce it, only as a sample of the boldness with which he now throws down the gauntlet to the governments and nations of Christendom. On Thursday the 7th of May, little more than three weeks ago, in the city of Oporto, ten gentlemen were openly murdered on the avowed ground, that on the 16th of May, 1828, while Miguel himself still pretended to be the lieutenant of Dom Pedro, they followed the example of Austria and England, in treating Dom Pedro as their lawful sovereign, and in endeavouring to carry into execution the laws established by him. Two were reserved for longer suffering by a pretended pardon: — the tender mercies of the wicked are cruel. One of these two was condemned to a lingering yet agonising death in the galleys of Angola; the other, the brother of the Ambassador at Brussels, was condemned to hard labour for life, but adjudged first to witness the execution of his friends; — an aggravation light to the hard-hearted, heart-breaking to the generous, which, by a hateful contrivance, draws the whole force of the infliction from the virtues of the sufferer. The city of Oporto felt this scene with a horror not lessened by the sentiments which generations of Englishmen have, I would fain hope, left behind them. The rich fled to their villas; the poor shut up their doors and windows; the peasants of the neighbourhood withheld their wonted supplies from the markets of the tainted city; the deserted streets were left to the executioner, his guards, and his victims, — with no more beholders

than were needful to bear witness, that those "faithful found among the faithless" left the world with the feelings of men who die for their country.

On the 16th of May, 1828, the day on which the pretended treasons were charged to have been committed, the state of Portugal was, in the light most indulgent to Miguel, that of a contest for the crown. It was not a rebellion: it was a civil war. At the close of these wars without triumph, civilised victors hasten to throw the pall of amnesty over the wounds of their country. Not so Miguel: ten months after submission, he sheds blood for acts done before the war. He has not the excuses of Robespierre and Marat: — no army is marching on Lisbon; no squadron is entering the Tagus with the flag of deliverance. The season of fulness and safety, which stills the tiger, rouses the coward's thirst for blood. Is this the blind instinct of ferocity? Is it only to carry despair into the thousands of loyal Portuguese whom he has scattered over the earth? No! acts of later date might have served that purpose: his choice of time is a defiance to Europe. The offence here was resisting an usurpation, the consummation of which a few weeks after made the representatives of Europe fly from Lisbon, as from a city of the plague. The indignity is chiefly pointed at the two Mediating Powers, who have not yet relinquished all hopes of compromise. But it is not confined to them: though he is aware that a breath would blow him away without blood or cost, he makes a daring experiment on the patience of all Europe. He will draw out for slaughter handful after handful of those, whose sole crime was to trust the words and follow the example of all civilised nations. He believes that an attempt will at length be made to stop his crimes by a recognition of his authority, — that by dint of murders he may force his way into the number of the dispensers of justice and mercy. He holds up the bleeding heads of Oporto to tell sovereigns and nations alike how he scorns their judgment and defies their power.

SPEECH

ON THE SECOND READING

OF THE

BILL TO AMEND THE REPRESENTATION

OF THE

PEOPLE OF ENGLAND AND WALES.

DELIVERED IN THE HOUSE OF COMMONS, ON THE 4TH OF JULY, 1831.

MR. SPEAKER,

I feel no surprise, and, certainly no regret, at the applause which followed the speech of the Honourable and Learned Gentleman*, whose speeches never leave any unpleasant impression, but the reflection that he speaks so seldom. Much of that excellent speech so immediately bears on the whole question of Parliamentary Reform, that it will naturally lead me to the consideration of the general principle of the Bill before us.

I must, Sir, however, premise a very few remarks on the speech of the Honourable Baronet†; though I shall not follow him through his account of the squabble between the labourers and their employers at Merthyr Tidvil, which I leave to the justice of the

* Mr. Fynes Clinton, M.P. for Aldborough. — ED.

† Sir John Walsh, who had moved the amendment that the Bill be read that day six months, which Mr. Clinton had seconded. — ED.

law, or, what is better, to the prudence and principle of both parties. Neither can I seriously handle his objection to this Bill, that it has produced a strong interest, and divided opinions throughout the kingdom. Such objections prove too much: they would exclude most important questions, and, certainly, all reformatory measures. It is one of the chief advantages of free governments, that they excite, — sometimes to an inconvenient degree, but, upon the whole, with the utmost benefit, — all the generous feelings, all the efforts for a public cause, of which human nature is capable. But there is one point in the ingenious speech of the Honourable Baronet, which, as it touches the great doctrines of the Constitution, and involves a reflection on the conduct of many Members of this House, cannot be passed over, without an exposition of the fallacy which shuts his eyes to very plain truths. Mr. Burke, in the famous speech at Bristol, told, indeed, his constituents, that as soon as he should be elected, however much he might respect their opinions, his votes must be governed by his own conscience. This doctrine was indisputably true. But did he not, by his elaborate justification of his public conduct, admit their jurisdiction over it, and acknowledge, that if he failed in converting them, they had an undoubted right to reject him? Then, if they could justly reject him, for differing from what they thought right, it follows, most evidently, that they might, with equal justice, refuse their suffrages to him, if they thought his future votes likely to differ from those which they deemed indispensable to the public weal. If they doubted what that future conduct might be, they were entitled, and bound, to require a satisfactory explanation, either in public or in private; and in case of unsatisfactory, or of no explanation, to refuse their support to the candidate. This duty the people may exercise in whatever form they deem most effectual. They impose no restriction on the conscience of the candidate; they only satisfy their

own conscience, by rejecting a candidate, of whose conduct, on the most momentous question, they have reason to doubt. Far less could constituents be absolved, on the present occasion, from the absolute duty of ascertaining the determination of candidates on the subject of Parliamentary Reform. His Majesty, in his speech from the throne, on the 22d of April, was pleased to declare, "I have come to meet you, for the purpose of proroguing Parliament, with a view to its immediate dissolution. I have been induced to resort to this measure, for the purpose of ascertaining the sense of my people, in the way in which it can be most constitutionally and authentically expressed, on the expediency of making such changes in the representation as circumstances may appear to require; and which, founded upon the acknowledged principles of the Constitution, may tend at once to uphold the just rights and prerogatives of the Crown, and to give security to the liberties of the subject." What answer could the people have made to the appeal thus generously made to them, without taking all necessary means to be assured that the votes of those whom they chose, would sufficiently manifest to him the sense of his people, on the changes necessary to be made in the representation?

On subjects of foreign policy, Sir, a long silence has been observed on this side of the House, — undisturbed, I am bound to add, by the opposite side, for reasons which are very obvious. We are silent, and we are allowed to be silent; because, a word spoken awry might occasion fatal explosions. The affairs of the Continent are so embroiled, that we have forborne to express those feelings which must agitate the breast of every human being, at the sight of that admirable and afflicting struggle * on which the eyes of Europe are constantly, however silently, fixed. As it is admitted by the Honourable Baronet,

* The insurrection in Poland. — Ed.

that the resistance of the French to an usurpation of their rights last year was glorious to all who were concerned in it, it follows that, being just, it has no need of being sanctioned by the approbation of fortune. Who then are morally answerable for the unfortunate confusions which followed, and for the further commotion, which, if heaven avert it not, may convulse France and Europe? Who opened the floodgates of discord on mankind? Not the friends of liberty, — not the advocates of popular principles: their hands are clean; — they took up arms only to defend themselves against wrong. I hold sacred every retreat of misfortune, and desire not to disturb fallen greatness; but justice compels me to say, that the hands of the late King of France were made to unlock these gates by his usurping ordinances,—

"To open; but to shut surpassed his power."

The dangers of Europe do not originate in democratical principles, or democratical power, but in a conspiracy for the subversion of all popular rights, however sanctioned by oaths, by constitution, and by laws.

I shall now, Sir, directly proceed to the latter part of the speech of the Honourable and Learned Member for Boroughbridge, which regards the general principle and character of this Bill. In so doing, I shall endeavour, as far as may be, not to displease the fastidious ears of the Honourable Baronet, by frequently repeating the barbarous names of the Tudors and Plantagenets. I must, however, follow the Honourable and Learned Member to the fountains of our government and laws, whither, indeed, he calls upon me with no unfriendly voice to accompany him.

That no example can be found from the time of Simon de Montfort to the present year, either in the practice of ancient legislation, or in the improvements proposed by modern Reformers, which sanctions the

general principle of this Bill, is an assertion, which I am sure the Honourable Gentleman will discover to be unadvisedly hazarded.

I shall begin with one of the latest examples of a Reformer of great weight and authority, — that which is afforded by the speech and the plan of Mr. Pitt, in 1785, because it does not only itself exhibit the principle of the schedules of this Bill, but because it proves, beyond all possibility of dispute, his thorough conviction that this principle is conformable to the ancient laws and practice of the constitution. The principle of Schedules A. and B. is the abolition, partial or total, of the elective rights of petty and dependent boroughs. The principle of Schedules C. D. and E. is the transfer of that resumed right to great towns, and to other bodies of constituents deemed likely to use it better. Let me now state Mr. Pitt's opinion, in his own words, on the expediency of acting on both these principles, and on the agreement of both with the ancient course and order of the constitution. His plan, it is well known, was to take away seventy-two members from thirty-six small boroughs, and to add them to the county representation, with a permanent provision for such other transfers of similar rights to great towns, as should from time to time seem necessary. His object, in this disfranchisement and enfranchisement, was, according to his own words, "to make the House of Commons an assembly which should have the closest union, and the most perfect sympathy with the mass of the people." To effect this object he proposed to buy up these boroughs by the establishment of a fund (*cheers from the Opposition*), of which the first effect was expected to be considerable, and the accumulation would prove an irresistible temptation. Gentlemen would do well to hear the whole words of Mr. Pitt, before they so loudly exult: — "It is an indisputable doctrine of antiquity, that the state of the representation is to be changed with the change of circumstances. Change

in the borough representation was frequent. A great number of the boroughs, originally Parliamentary, had been disfranchised,—that is, the Crown had ceased to summon them to send burgesses. Some of these had been restored on their petitions: the rest had not recovered their lost franchise. Considering the restoration of the former, and the deprivation of the latter, *the constitution had been grossly violated, if it was true* (*which he denied*) that the extension of the elective franchise to one set of boroughs, and the resumption of it from others, was a violation of the constitution. The alterations were not made from principle; but they were founded on the general notion which gave the discretionary power to the Crown, — viz. that the principal places, and not the decayed boroughs, should exercise the right of election."* I know full well that these boroughs were to be bought. I also know, that the late Member for Dorset (Mr. Bankes), the college-friend, the zealous but independent supporter of Mr. Pitt, exclaimed against the purchase, though he applauded the Reform. How did Mr. Pitt answer? Did he say I cannot deprive men of inviolable privileges without compensation; I cannot promote Reform by injustice? Must he not have so answered, if he had considered the resumption of the franchise as "corporation robbery?" No! he excuses himself to his friend: he declares the purchase to be "the tender part of the subject," and apologises for it, as "having become a necessary evil, if any Reform was to take place." Would this great master of language, who so thoroughly understood and practised precision and propriety of words, have called that a necessary evil which he thought an obligation of justice, — the payment of a sacred debt? It is clear from the very words that follow, — "if any Reform were to take place," that he regarded the price of the boroughs merely as a boon to so many

* Parl. Hist. vol. xxv. p. 435. — Ed.

borough-holders to become proselytes to it. It is material also to observe, that as compensation was no part of his plans or suggestions in 1782 and 1783, he could not have consistently represented it as of right due. Another decisive reason renders it impossible to annex any other meaning to his language:—he justifies his system of transferring the franchise by analogy to the ancient practice of ceasing to summon some boroughs to send members, while the prerogative of summoning others at pleasure was acknowledged. But the analogy would have failed, if he thought compensation was due; for it is certain that no compensation was dreamt of, till his own plan. Would he have so strenuously maintained the constitutional authority to disfranchise and enfranchise different places, if he had entertained the least suspicion that it could not be exercised without being justly characterised as an act of rapine? Another circumstance is conclusive:—his plan, as may be seen in his speech, was to make the compensation to the borough-holders,—not to the poor freemen, the scot and lot voters, the pot-walloppers,—whose spoliation has been so much deprecated on this occasion,—who alone could have had any pretence of justice or colour of law to claim it. They at least had legal privileges: the compensation to the borough-holders was to be for the loss of their profits by breaches of law. One passage only in Mr. Pitt's speech, may be thought favourable to another sense:—"To a Reform by violence he had an insurmountable objection." Now these words might mean only an objection to effect his purpose by an act of the supreme power, when he could introduce the same good by milder means. The reports of that period were far less accurate than they now are: the general tenor of the speech must determine the meaning of a single word. It seems to me impossible to believe, that he could have intended more than that he preferred a pacific accommodation of almost any sort to formidable resistance, and the chance

of lasting discontent. This preference, founded either on personal feelings, or on supposed expediency, is nothing against my present purpose. What an imputation would be thrown on his memory, by supposing that he who answered the objection of Reform being *unconstitutional*, could pass over the more serious objection that it was *unjust*.

That I may not be obliged to return to this case, I shall add one other observation, which more strictly belongs to another part of the argument. Mr. Pitt never once hints, that the dependent boroughs were thought necessary to the security of property. It never occurred to him that any one could think them intrinsically good. It was impossible that he could propose to employ a million sterling in demolishing the safeguards of the British constitution. Be it observed, that this remark must be considered by all who respect the authority of Mr. Pitt as of great weight, even if they believe compensation and voluntary surrender to be essential to the justice of transferring the elective franchise. It must, then, I think, be acknowledged by the Honourable and Learned Member for Aldborough himself, that there was a Reformer of great name before my Noble Friend, who maintained the transfer of the elective franchise, by disfranchisement and enfranchisement, to be conformable to ancient rights or usages, and for that reason, among others, fit to be employed as parts of a plan of Parliamentary Reform.*

The two plans of Reform, Sir, that have been proposed, during the last seventy years, may be divided into the Simultaneous and the Progressive. Of the first it is manifest, that the two expedients of resuming the franchise from those who cannot use it for the public good, and bestowing it where it will pro-

* The Reforms proposed by Mr. Flood in 1790, and by Lord Grey in 1797, might have been added to those of Mr. Pitt in 1782, 1783, and 1785.

bably be better employed, are indispensable, or rather essential parts. I shall presently show that it is impossible to execute the most slowly Progressive scheme of Reformation, without some application, however limited, of these now altogether proscribed principles.

I do not wish to displease the Honourable Baronet by frequent or extensive excursions into the Middle Ages; but the Honourable and Learned Gentleman will admit that the right of the Crown to summon new boroughs, was never disputed until its last exercise by Charles II. in the well-known instance of Newark. In the Tudor reigns, this prerogative had added one hundred and fifty members to this House. In the forty-five years of Elizabeth, more than sixty were received into it. From the accession of Henry VII. to the disuse of the prerogative, the representation received an accession of about two hundred, if we include the cases where representation was established by Parliament, and those where, after a disuse of centuries, it was so restored. Let me add, without enlarging on it, that forty-four boroughs, and a city, which anciently sent burgesses to this House, are unrepresented at this day. I know no Parliamentary mode of restoring their franchises, but by a statute, which would be in effect a new grant. I believe, that if such matters were cognisable by courts of law, the judges would presume, or, for greater security, advise a jury to presume, after a disuse of so many centuries, that it had originated either in a surrender, or in some other legal mode of terminating the privilege. According to the common maxim, that there is no right without a remedy, we may infer the absence of right from the absence of remedy. In that case, the disuse of granting summonses by the King, or his officers, must be taken to have been legal, in spite of the authority of Serjeant Glanville and his Committee, who, in the reign of James I., held the contrary doctrine. But I waive this question, because the answer to it is needless to the purpose of my argument. It

is enough for me that the disuse had been practically maintained, without being questioned, till the end of James's reign; and that it still shuts our doors on ninety persons who might otherwise be chosen to sit in this House. The practice *of resuming the franchise*, therefore, prevailed as certainly in ancient times, as the exercise of the prerogative of conferring it. The effect of both combined, was to take from the representation the character of immutability, and to bestow on it that flexibility which, if it had been then properly applied, might have easily fitted it for every change of circumstances. These powers were never exercised on any fixed principle. The prerogative was often grievously abused; but the abuse chiefly consisted in granting the privilege to beggarly villages, or to the manor or demesne of a favoured lord: there are few examples of withholding the franchise from considerable towns. On a rapid review of the class of towns next in importance to London, such as York, Bristol, Exeter, Norwich, Lincoln, &c., it appears to me, that they all sent Members to the House of Commons of Edward I. Boston did not occur to me; but, admitting the statement respecting that place to be accurate, the Honourable and Learned Gentleman must allow this instance to be at variance with the general spirit and tendency of the ancient constitution, in the distribution of elective privileges. I do not call it an exception to a rule; for there were no rules: it was no departure from principle; for no general principle was professed, or, perhaps, thought of: but it was at variance with that disposition not to leave great towns unrepresented, which, though not reduced to system, yet practically influenced the coarse good sense of our ancestors, and, what is remarkable, is most discernible in the earliest part of their legislation.*

* For a more detailed reference to the earlier statutory regulations affecting the franchise, see Appendix A. — Ed.

It was not the Union with Scotland that stopped the exercise of the prerogative. With the exception of Newark, there was no instance of its exertion for nearly seventy years before that date. We know that the Stuart Kings dreaded an increase of members in this House, as likely to bestow a more democratical character on its proceedings: but still the true cause of the extinction of the prrogative, was the jealousy of a people become more enlightened, and suspicious of a power which had already been abused, and which might be made the means of enslaving the kingdom. The discussions in this House respecting the admission of the members for Newark, though they ended favourably to the Crown in that instance, afforded such a specimen of the general sentiments and temper respecting the prerogative, that no man was bold enough to advise its subsequent exercise.

The course of true wisdom would have been to regulate the employment of the prerogative by a law, which, acting quietly, calmly, but constantly, would have removed or prevented all gross inequality in the representation, It would have then been necessary only to enact that every town, which grew to a certain number of houses, should be summoned to send members to Parliament, and that every town which fell below a certain number, should cease to be so summoned. The consequence of this neglect became apparent as the want of some remedial power was felt. The regulator of the representation, which had been injuriously active in stationary times, was suffered to drop from the machine at a moment when it was much needed to adapt the elective system to the rapid and prodigious changes which have occurred in the state of society,—when vast cities have sprung up in every province, and the manufacturing world may be said to have been created. There was no longer any renovating principle in the frame of the constitution. All the marvellous works of industry and science are unnoticed in our system of representation. The

changes of a century and a half since the case of Newark,—the social revolution of the last sixty years, have altered the whole condition of mankind more than did the three centuries which passed before:—the representation alone has stood still. It is to this interruption of the *vis medicatrix et conservatrix* of the commonwealth that we owe the necessity of now recurring to the extensive plan of Simultaneous Reform, of which I do not dispute the inconveniences. We are now called on to pay the arrears of a hundred and sixty years of an unreformed representation. The immediate settlement of this constitutional balance is now difficult;—it may not be without danger: but it is become necessary that we may avoid ruin. It may soon be impossible to save us by that, or by any other means.

But, Sir, we are here met by a serious question, which, being founded on a principle generally true, acquires a great effect by specious application. We are reminded by the Honourable and Learned Gentleman, that governments are to be valued for their beneficial effects,—not for their beauty as ingenious pieces of machinery. We are asked, what is the practical evil which we propose to remove, or even to lessen, by Reform? We are told that the representative system "works well," and that the excellence of the English constitution is attested by the admirable fruits, which for at least a century and a half it has produced. I dare not take the high ground of denying the truth of the facts thus alleged. God forbid that I should ever derogate from the transcendent merits of the English constitution, which it has been the chief occupation of my life to study, and which I now seek, because I love it, to reform!

Much as I love and revere this constitution, I must say, that, during the last century, the representative system has not worked well. I do not mean to undervalue its general results; but it has not worked well for one grand purpose, without which no other benefit

can be safe:—the means employed in elections has worked all respect for the constitution out of the hearts of the people. The foulness and shamefulness, or the fraud and mockery of borough elections, have slowly weaned the people from their ancient attachments. With less competence, perhaps, than others, to draw up the general comparison between the good and evil results, they were shocked by the barefaced corruption which the increasing frequency of contests constantly brought home to them. These disgusting scenes could not but uproot attachment to the government to which they seemed to pertain. The people could see nothing venerable in venality,—in bribery,—in the sale of some, and in the gift of other seats,—in nominal elections carried on by individuals, under the disguise of popular forms.

It is true, that the vile machinery of openly marketable votes, was the most powerful cause which alienated them. But half the nomination-boroughs were so marketable. Though I know one nomination-borough* where no seat was ever sold,—where no Member ever heard a whisper of the wishes of a patron,—where One Member at least was under no restraint beyond the ties of political opinion and friendship, which he voluntarily imposed upon himself. It does not become me to say how the Member to whom I advert would have acted in other circumstances; but I am firmly convinced that the generous nature of the other Party would as much recoil from imposing dependency, as any other could recoil from submitting to it. I do not pretend to say that this is a solitary instance: but I believe it to be too favourable a one to be a fair sample of the general practice.

Even in the best cases, the pretended election was an eye-sore to all that witnessed it. A lie was solemnly acted before their eyes. While the popular

* Knaresborough, the property of the Duke of Devonshire, which he had represented since 1818. — Ed.

principles of the constitution had taught them that popular elections belonged to the people, all the acts that the letter of the law had expressly forbidden were now become the ordinary means of obtaining a Parliamentary seat. These odious and loathsome means became more general as the country increased in wealth, and as the people grew better informed, — more jealous of encroachment on their rights, and more impatient of exclusion from power. In the times of the Stuarts and Tudors, the burgesses, as we see from the lists, had been very generally the sons of neighbouring gentlemen, chosen with little contest and noise, and so seldom open to the charge of bribery, that when it occurred, we find it mentioned as a singular event. It was not till after the Revolution that monied candidates came from the Capital to invade a tranquillity very closely allied to blind submission. At length, the worst of all practical effects was produced:—the constitution sunk in popular estimation; the mass of the people were estranged from the objects of their hereditary reverence. An election is the part of our constitution with which the multitude come into most frequent contact. Seeing in many of them nothing but debauchery, — riot, — the sale of a right to concur in making law, — the purchase in open market of a share in the choice of lawgivers, — absolute nomination under the forms of election, they were conscious that many immoral, many illegal practices became habitual, and were even justified. Was it not natural for the majority of honest men to form their judgments rather by means of their moral feelings, than as the results of refined arguments, founded on a calm comparison of evils? Such at least was the effect of this most mischievous practice, that when any misfortune of the country, any error of the Government, any commotion abroad, or any disorder at home arose, they were all ascribed, with exaggeration, but naturally, to the corruption, which

the humblest of the people saw had tainted the vital organs of the commonwealth.

My Honourable and Excellent Friend, the Member for the University of Oxford *, indeed told the last Parliament, that the clamours about the state of the representation were only momentary cries, which, however magnified at the moment, always quickly yielded to a vigorous and politic government. He might have looked back somewhat farther. What were the Place Bills and Triennial Bills of Sir Robert Walpole's time? Were they not, in truth, demands of Parliamentary Reform? The cry is therefore one of the symptoms of a distemper, which has lasted for a century. But to come to his more recent examples: —in 1770, Lord Chatham was the agitator; Mr. Burke was the incendiary pamphleteer, who exaggerated the importance of a momentary delusion, which was to subside as quickly as it had risen. Unfortunately for this reasoning, though the delusion subsided after 1770, it revived again in 1780, under Sir George Saville; under Mr. Pitt in 1782, 1783, and 1784: it was felt at the time of Mr. Flood's motion in 1790. Lord Grey's motion in 1797 was supported by respectable Tories, such as Sir William Dolben, Sir Rowland Hill, and by conscientious men, more friendly to Mr. Pitt, than to his opponents, of whom it is enough to name Mr. Henry Thornton, then Member for Surrey. Instead of being the expressions of a transient delusion, these constantly recurring complaints are the symptoms of a deep-rooted malady, sometimes breaking out, sometimes dying away, sometimes repelled, but always sure to return,—re-appearing with resistless force in the elections of 1830, and still more decisively in those of 1831. If we seek for proof of an occasional provocation, which roused the people to a louder declaration of their opinions, where shall we find a more unexceptionable witness, than in one of the

* Sir Robert Harry Inglis, Bart. — Ed.

ablest and most unsparing opponents of the Ministers and of their Bill. Mr. Henry Drummond, in his very able Address to the Freeholders of Surrey, explicitly ascribes the irritation which now prevails to the unwise language of the late Ministers. The declaration of the late Ministers against Reform, says he, "proved their gross ignorance of the national feeling, and drove the people of England to despair."

Many allege, Sir, that the people have gained so much strength and influence through the press, that they need no formal privileges or legal franchises to reinforce it. If it be so, I consider it to be a decisive reason for a reformation of the scheme of the representation. A country in which the masses are become powerful by their intelligence and by their wealth, while they are exasperated by exclusion from political rights, never can be in a safe condition. I hold it to be one of the most invariable maxims of legislation, to bind to the constitution, by the participation of legal privilege, all persons who have risen in wealth, — in intelligence, — in any of the legitimate sources of ascendancy. I would do now what our forefathers, though rudely, aimed at doing, by calling into the national councils every rising element in the body politic.

The grand objection to this Bill, Sir, is what ought to be fatal to any Bill, if the objection had any foundation but loud and bold assertion, — that it is unjust. This argument was never, indeed, urged by the Right Honourable Baronet, and it seems to be on the eve of being abandoned. But the walls of the House still seem to resound with the vociferations of my Honourable and Learned Friend, the Member for Boroughbridge *, against what he called "corporation robbery." Now many of these boroughs have no corporations at all; while none who have will be deprived of their corporate rights. But if all these corporations had

* Sir Charles Wetherell. — Ed.

been about to be divested of their character,—divested of rights which have been, or are likely to be abused, the term "robbery" would have been ridiculously inapplicable. Examples are more striking than general reasonings. Was the disuse of issuing Writs of Summons, as a consequence of which near a hundred Members are excluded from this House, an act of "robbery?" Was the Union with Scotland, which reduced the borough representation from sixty-five to fifteen, an act of "robbery?" Yes, surely, it was, if the term can be properly applied to this Bill. The Scotch boroughs were thrown into clusters of four and five, each of which sent a burgess. But if it be "robbery" to take away the whole of a franchise, is it not in principle as violent an invasion of property to take away four-fifths or three-fourths of it? What will be said of the Union with Ireland? Was it "robbery" to reduce her representation from three hundred to one hundred Members? Was it "robbery" to disfranchise, as they did then, one hundred boroughs on the very principle of the present Bill, — because they were decayed, dependent, and so unfit to exercise the franchise? Was it "robbery" to deprive the Peers of Scotland of their birthright, and compel them to be contented with a bare possibility of being occasionally elected? Was it "robbery" to mutilate the legislative rights of the Irish Peerage? No! because, in all these cases, the powers taken away or limited were trusts resumable by Parliament for the general well-being.

Further, I contend that if this be "robbery," every borough disfranchised for corruption has been "robbed" of its rights. Talk not to me of the *guilt* of these boroughs: individuals are innocent or guilty, — bodies politic can be neither. If disfranchisement be considered as a punishment, where is the trial, — where are the witnesses on oath, — where are the precautions against partiality, — where are the responsible judges? Who, indeed, are the judges? — men

who have avowedly committed and have justified as constitutional the very offence. Why, in such cases, are the unborn punished for the offences of the present generation? Why should the innocent minority suffer for the sins of a venal majority? If the rights of unoffending parties are reserved, of what importance is the reservation, if they are to be merged in those of hundreds or thousands of fellow-voters? Would not the opening of the suffrage in the city of Bath be as destructive to the close Corporation as if they were to be by name disfranchised? Viewed in that light, every Bill of Disfranchisement is a Bill of Pains and Penalties, and in the nature of a Bill of Attainder. How are these absurdities avoided? — only by the principle of this Bill, — that political trust may be justly resumed by the supreme power, whenever it is deemed injurious to the commonwealth.

The test, Sir, which distinguishes property from trust, is simple, and easily applied: — property exists for the benefit of the proprietor; political power exists only for the service of the state. Property is, indeed, the most useful of all human institutions: it is so, because the power of every man to do what he will with his own, is beneficial and even essential to the existence of society. A trustee is legally answerable for the abuse of his power: a proprietor is not amenable to human law for any misuse of his property, unless it should involve a direct violation of the rights of others. It is said, that property is a trust; and so it may, in figurative language, be called: but it is a moral, not a legal one. In the present argument, we have to deal only with the latter. The confusion of the ideas misled the Stuarts so far, that they thought the kingdom their property, till they were undeceived by the Revolution, which taught us, that man cannot have a property in his fellows. As all government is a trust, the share which each voter has in the nomination of lawgivers is one also. Otherwise, if the voter, as such, were a proprietor, he must

have a property in his fellow citizens, who are governed by laws, of which he has a share in naming the makers. If the doctrine of the franchise being property be admitted, all Reform is for ever precluded. Even the enfranchisement of new boroughs, or districts, must be renounced; for every addition diminishes the value of the previous suffrage: and it is no more lawful to lessen the value of property, than to take it away.

Of all doctrines which threaten the principle of property, none more dangerous was ever promulgated, than that which confounds it with political privileges. None of the disciples of St. Simon, or of the followers of the ingenious and benevolent Owen, have struck so deadly a blow at it, as those who would reduce it to the level of the elective rights of Gatton and Old Sarum. Property,—the nourisher of mankind,—the incentive to industry,—the cement of human society,—will be in a perilous condition, if the people be taught to identify it with political abuse, and to deal with it as being involved in its impending fate. Let us not teach the spoilers of future times to represent our resumption of a right of suffrage as a precedent for their seizure of lands and possessions.

Much is said in praise of the practice of nomination, which is now called "the most unexceptionable part of our representation." To nomination, it seems, we owe the talents of our young Members,—the prudence and experience of the more aged. It supplies the colonies and dependencies of this great empire with virtual representation in this House. By it commercial and funded property finds skilful advocates and intrepid defenders. All these happy consequences are ascribed to that flagrant system of breaches of the law, which is now called "the practice of the English constitution."

Sir, I never had, and have not now, any objection to the admission of representatives of the colonies into this House, on fair and just conditions. But I cannot conceive that a Bill which is objected to, as raising

the commercial interest at the expense of the landed, will also lessen the safeguards of their property. Considering the well-known and most remarkable subdivision of funded income,—the most minutely divided of any mass of property,—I do not believe that any representatives, or even any constituents, could be ultimately disposed to do themselves so great an injury as to invade it. Men of genius, and men of experience, and men of opulence, have found their way into this House through nomination, or worse means,—through any channel that was open: the same classes of candidates will now direct their ambition and their efforts to the new channels opened by the present Bill; they will attain their end by only varying their means.

A list has been read to us of illustrious men who found an introduction to Parliament, or a refuge from unmerited loss of popularity, by means of decayed boroughs. What does such a catalogue prove, but that England, for the last sixty years, has been a country full of ability,—of knowledge,—of intellectual activity,—of honourable ambition, and that a large portion of these qualities has flowed into the House of Commons? Might not the same dazzling common-places have been opposed to the abolition of the court of the Star Chamber? "What," it might have been said, "will you, in your frantic rage of innovation, demolish the tribunal in which Sir Thomas More, the best of men, and Lord Bacon, the greatest of philosophers, presided,—where Sir Edward Coke, the oracle of law,—where Burleigh and Walsingham, the most revered of English statesmen, sat as judges,—which Bacon, enlightened by philosophy and experience, called the peculiar glory of our legislation, as being 'a court of criminal equity?' Will you, in your paroxysms of audacious phrenzy, abolish this Prætorian tribunal,—this sole instrument for bridling popular incendiaries? Will you dare to persevere in your wild purpose, at a moment when Scotland is agitated by a rebellious League and Covenant,—

when Ireland is threatened with insurrection and massacre? Will you surrender the shield of the crown, — the only formidable arm of prerogative, — at a time when His Majesty's authority is openly defied in the capital where we are assembled?"

I cannot, indeed, Sir, recollect a single instance in that long course of reformation, which constitutes the history of the English constitution, where the same plausible arguments, and the same exciting topics, might not have been employed as are now pointed against the present measure. The Honourable and Learned Gentleman has alluded to Simon de Montfort, — the first and most extensive Parliamentary Reformer, — who placed the representatives of the burgesses in Parliament. The haughty and unlettered Barons disdained argument; but their murmurs were doubtless loud and vehement. Even they could exclaim that the new constitution was an "untried scheme," — that it was a "daring experiment," — that it "would level all the distinctions of society," — that it would throw the power of the state into the hands of traffickers and burgesses. Were men but yesterday slaves, now to be seated by the side of Plantagenets engaged in the arduous duty of making laws? Are these not the topics which are substantially used against Parliamentary Reform? They are now belied by experience, which has taught us that the adoption of the lower classes into the constitution, the concessions made to them, and the widening of the foundation of the legislature, have been the source of peace, of order, of harmony, — of all that is excellent in our government, and of all that secures the frame of our society. The Habeas Corpus Act, in the reign of Charles the Second, was obtained only by the repeated, persevering, unwearied exertions of the Earl of Shaftesbury, after a meritorious struggle of many years. I mention the facts with pleasure in the presence of his descendant.* It is now well known,

* Viscount Ashley. — Ed.

from the confidential correspondence of Charles and his brother James, that they both believed sincerely that a government without the power of arbitrary imprisonment could not long exist; and that Shaftesbury had forced this Act upon them, in order either to expose them unarmed to the populace, or to drive them to have recourse to the odious and precarious protection of a standing army. The belief of the Royal Brothers was the more incorrigible, because it was sincere. It is the fatal effect of absolute power to corrupt the judgment of its possessors, and to insinuate into their minds the false and pernicious opinion, that power is always weakened by limitation.

Shall I be told, that the sale of seats is not in itself an evil? The same most ingenious person* who hazarded this paradox, quoted the example of the sale of the judicial office in Old France, with a near approach to approbation. That practice has been vindicated by French writers of great note; and it had, in fact, many guards and limitations not to be found in our system of marketable boroughs: but it has been swept away by the Revolution; and there is now no man disposed to palliate its shameless enormity. The grossest abuses, as long as they prevail, never want advocates to find out specious mitigations of their effects: their downfall discovers their deformity to every eye. For my part, I do not see, why the sale of a power to make laws should not be as immoral as the sale of a power to administer them.

We have heard it said, Sir, that the Peerage, and even the Monarchy, cannot survive the loss of these boroughs; and we are referred to the period that has elapsed since the Revolution, as that during which this influence has been their main guard against popular assault and dictation. I respectfully lay aside the Crown in this debate; and in the few words that I am now about to utter, I am desirous to express

* It would not seem easy to specify the person alluded to.—Ed.

myself in cautious and constitutional language. Since the Revolution,—since the defeat of the attempts to establish absolute monarchy, the English government has undoubtedly become Parliamentary. But during that time, also, the hereditary elements of the constitution have been uniformly respected as wholesome temperaments of the rashness of popular assemblies. I can discover nothing in this proposed change which will disable the Peers from usefully continuing to perform this duty. If some inconvenient diminution of the influence of great property should follow, we must encounter the risk; for nothing can, in my judgment, be more certain, than that the constitution can no longer bear the weight of the obloquy thrown upon it by our present mode of conducting elections. The community cannot afford to purchase any advantage at such an expense of private character. But so great is the natural influence of property, especially in a country where the various ranks of society have been so long bound together by friendly ties as in ours, that I can scarcely conceive any laws or institutions which could much diminish the influence of well-spent wealth, whether honourably inherited, or honestly earned.

The benefits of any reformation might indeed be hazarded, if the great proprietors were to set themselves in battle array against the permanent desires of the people. If they treat their countrymen as adversaries, they may, in their turn, excite a hostile spirit. Distrust will beget distrust: jealousy will awaken an adverse jealousy. I trust that these evil consequences may not arise. The Nobility of England, in former times, have led their countrymen in the battles of liberty: those among them who are most distinguished by ample possessions, by historical names, or by hereditary fame, interwoven with the glory of their country, have, on this occasion, been the foremost to show their confidence in the people,—their unsuspecting liberality in the enlargement of

popular privilege, — their reliance on the sense and honesty of their fellow-citizens, as the best safeguard of property and of order, as well as of all other interests of society. Already, this measure has exhibited a disinterestedness which has united all classes, from the highest borough-holder to the humblest non-resident freeman, in the sacrifice of their own exclusive advantages to what they think a great public good. There must be something good in what produces so noble a sacrifice.

This, Sir, is not solely a reformatory measure; it is also conciliatory. If it were proposed exclusively for the amendment of institutions, I might join in the prevalent cry "that it goes too far," or at least "travels too fast," — farther and faster than the maxims of wise reformation would warrant. But as it is a means of regaining national confidence, it must be guided by other maxims. In that important view of the subject, I consider the terms of this plan as of less consequence than the temper which it breathes, and the spirit by which it is animated. A conciliatory measure deserves the name only, when it is seen and felt by the simplest of men, to flow from the desire and determination to conciliate. At this moment, when, amidst many causes of discord, there is a general sympathy in favour of reformation, the superior classes of society by opening their arms to receive the people, — by giving to the people a signal and conspicuous proof of confidence, — may reasonably expect to be trusted in return. But to reach this end, they must not only be, but appear to be, liberally just and equitably generous. Confidence can be purchased by confidence alone. If the leading classes follow the example of many of their own number, — if they show, by gracious and cheerful concessions, — by striking acts, not merely by specious language or cold formalities of law, — that they are willing to rest on the fidelity and conscience of the people, I do not believe that they will lean on a broken reed. As for those wise saws which

teach us that there is always danger in trust, and that policy and generosity are at perpetual variance, I hold them in little respect. Every unbending maxim of policy is hollow and unsafe. Base principles are often not the more prudent because they are pusillanimous. I rather agree with the beautiful peroration of Mr. Burke's second speech on North America: — "Magnanimity in politics is not seldom the truest wisdom: a great empire and little minds go ill together. If we are conscious of our situation, and glow with zeal to fill our place, as becomes our station and ourselves, we ought to auspicate our proceedings respecting America, with the old warning of the Church, — '*Sursum Corda.*' We ought to elevate our minds to the dignity of that trust, to which the order of Providence has called us."

Whether we consider this measure, either as a scheme of reformation, or an attempt to form an alliance with the people, it must be always remembered, that it is a question of the comparative safety or danger of the only systems now before us for our option; — that of undistinguishing adherence to present institutions, — that of ample redress and bold reformation, — and that of niggardly, evasive, and unwilling Reform. I say "comparative" safety or danger; for not one of those who have argued this question seem to have remembered that it has two sides. They have thrown all the danger of the times upon the Reform. They load it with as much odium as if the age were otherwise altogether exempt from turbulence and agitation, and first provoked from its serene quiet by this wanton attempt. They make it answerable for mischiefs which it may not have the power to prevent, and which might have occurred if no such measure had ever been attempted. They, at least, tacitly assume that it must aggravate every evil arising from other sources. In short, they beg the whole question in dispute. They ask us, Whether there be not danger in Reform? I answer by asking

them, Is there no danger in not reforming? To this question, to which they have never yet attempted to answer, I expect no answer now; because a negative one would seem to me impossible, while an affirmative would reduce the whole discussion to a cool computation and calm comparison of the different degrees of danger opening upon us.

A niggardly Reform, Sir, seems to me the most unsafe step of all systems. It cannot conciliate; for it is founded in distrust. It practically admits an evil, of which dissatisfaction is a large part; and yet it has been already proved by experience that it yet satisfied nobody. Other systems may be unsatisfactory: this scheme is so already. In the present temper of the people, and circumstances of the world, I can see no one good purpose to be answered by an evasive and delusive Reform. To what extent will they trust the determined enemies of the smallest step towards reformation, — who, to avoid the grant of the franchise to Birmingham, have broken up one Administration, and who, if they be sincere, must try every expedient to render impotent a measure which they can no longer venture avowedly to oppose.

On the other hand, Sir, the effect of the Bill before us has hitherto confirmed the opinion of those who thought that a measure of a conciliatory temper, and of large and liberal concession, would satisfy the people. The tone and scope of their petitions, which were at first extravagant, became moderate and pacific, as soon as the Bill was known. As soon as they saw so unexpected a project of substantial amendment, proceeding from sincere Reformers, they at once sacrificed all vague projects of indefinite perfection. Nothing can be more ludicrously absurd, than the supposition which has been hazarded among us, that several millions of men are such deep dissemblers, — such dark conspirators, — as to be able to conceal all their farther projects, till this Bill arms them with the means of carrying them into execution. The body of

a people cannot fail to be sincere. I do not expect any measure of legislation to work miracles. Discontent may and will continue; but I believe that it will be by this measure permanently abated. Others there doubtless are, who foretell far other effects: it seems to me, that the favourers of the Bill rest their predictions on more probable foundations.

Among the numerous assumptions of our opponents, there is none which appears to me more remarkable, than their taking for granted that concession is always, or even generally, more dangerous to the stability of government than resistance. As the Right Honourable Baronet introduced several happy quotations from Cicero on this subject, which he seemed to address more particularly to me, I hope I shall not be charged with pedantry, if I begin my proofs of the contrary, with the testimony of that great writer. In the third book of his work, "De Legibus," after having put an excellent aristocratical speech, against the tribunitian power, into the mouth of his brother Quintus, he proceeds to answer him as follows:— "Concessâ Plebi a Patribus istâ potestate, arma ceciderunt, restincta seditio est, inventum est temperamentum quo tenuiores cum principibus æquari se putarint; in quo uno fuit civitatis salus." It will not be said, that Cicero was a radical or a demagogue, or that he had any personal cause to be favourable to the tribunitian power. It will not be said, that to grant to a few, a right to stop the progress of every public measure, was a slender, or likely to be a safe concession. The ancients had more experience of democracy, and a better knowledge of the character of demagogues, than the frame of modern society allows us the means of attaining. This great man, in spite of his natural prejudices, and just resentments, ascribes to this apparently monstrous power, not merely the spirit and energy which may be expected even from the excess of popular institutions, but whatever safety and tranquillity the commonwealth enjoyed through

a series of ages. He would not, therefore, have argued, as has been argued on this occasion, that if the multitude appeal to violence, before legal privileges are conferred on them, they will be guilty of tenfold excesses when they become sharers in legitimate authority. On the contrary, he lays it down in the context of the passage quoted, that their violence is abated, by allowing a legal vent to their feelings.

But it appears, Sir, to be taken for granted, that concession to a people is always more dangerous to public quiet than resistance. Is there any pretence for such a doctrine? I appeal to history, as a vast magazine of facts, all leading to the very opposite conclusion, — teaching that this fatal principle has overthrown more thrones and dismembered more empires than any other — proving that late reformation, — dilatory reformation, — reformation refused at the critical moment, — which may pass for ever, — in the twinkling of an eye, — has been the most frequent of all causes of the convulsions which have shaken states, and for a time burst asunder the bonds of society. Allow me very briefly to advert to the earliest revolution of modern times: — was it by concession that Philip II. lost the Netherlands? Had he granted timely and equitable concessions, — had he not plotted the destruction of the ancient privileges of these flourishing provinces, under pretence that all popular privilege was repugnant to just authority, would he not have continued to his death the master of that fair portion of Europe? Did Charles I. lose his throne and his life by concession? Is it not notorious, that if, before losing the confidence of the Parliament and the people (after that loss all his expedients of policy were vain, as in such a case all policy is unavailing), he had adhered to the principles of the Petition of Right, to which he had given his Royal Assent, — if he had forborne from the persecution of the Puritans, — if he had refrained from levying money without a grant from Parliament, he

would, in all human probability, have reigned prosperously to the last day of his life. If there be any man who doubts it, his doubts will be easily removed without pursuing his studies farther than the first volume of Lord Clarendon's History. Did the British Parliament lose North America by concession? Is not the loss of that great empire solely to be ascribed to the obstinate resistance of this House to every conciliatory proposition, although supported by their own greatest men, tendered in the loyal petitions of the Colonies, until they were driven into the arms of France, and the door was for ever closed against all hopes of re-union? Had we yielded to the latest prayers of the Americans, it is hard to say how long the two British nations might have been held together: the separation, at all events, if absolutely necessary, might have been effected on quiet and friendly terms. Whatever may be thought of recent events (of which it is yet too early to form a final judgment), the history of their origin and progress would of itself be enough to show the wisdom of those early reformations, which, as Mr. Burke says, "are accommodations with a friend in power."

I feel, Sir, some curiosity to know how many of the high-principled, consistent, inflexible, and hitherto unyielding opponents of this Bill, will continue to refuse to make a declaration in favour of any Reform, till the last moment of this discussion. Although I differ from them very widely in opinion, I know how to estimate their fidelity towards each other, and their general fairness to others, as well as their firmness under circumstances of a discouraging and disheartening nature, calculated to sow distrust and disunion in any political party. What I dread and deprecate in their system is, that they offer no option but Reform or coercion. Let any man seriously consider what is the full import of this last tremendous word. Restrictions will be first laid on the people, which will be assuredly productive of new discontents,

provoking in turn an incensed Government to measures still more rigorous. Discontent will rankle into disaffection: disaffection will break out into revolt, which, supposing the most favourable termination, will not be quelled without spilling the blood of our countrymen, and will leave them in the end full of hatred for their rulers, and watching for the favourable opportunity of renewing their attack. It is needless to consider the consequences of a still more disastrous and irreparable termination of the contest. It is enough for me to say, that the long continuance of such wretched scuffles between the Government and the people is absolutely incompatible with the very existence of the English constitution. But although a darkness hangs over the event, is there nothing in the present temper,—in the opinions,—in the circumstances of all European nations, which renders the success of popular principles probable? The mode in which this matter has been argued, will excuse me for once more reminding the House that the question is one of comparative danger. I vote for the present Bill, not only because I approve of it as a measure of Reform, but because I consider it as affording the greatest probability of preserving the integrity of our fundamental laws. Those who shut their eyes on the tempests which are abroad,—on the gloomy silence with which the extreme parties look at each other, may obstinately persist in ascribing the present agitation of mind in Great Britain to a new Cabinet in November, or to a Reform Bill in March.

Our opponents, Sir, deal much in prophecy: they foretell all the evils which will spring from Reform. They do right: such anticipations are not only legitimate arguments; but they form the hinge on which the whole case turns. But they have two sets of weights and measures: they use the probability of future evil resulting from Reform as their main stay; but when we employ the probability of future evil

for No-Reform, in support of our opinion, they call it menace, and charge us with intimidation.

In this, and indeed in every other branch of the case, the arguments of our opponents have so singular a resemblance to those employed by them on the Catholic Question, that we might quote as answers to them their own language. Then, as now, Ministers were charged with yielding to clamour and menace, and with attempting to frighten other men from their independence. As a brief, but conclusive answer, I have only to say, that all policy consists in such considerations as to whether a measure be safe and beneficial,—that every statesman or lawgiver *ought* to fear what he considers as dangerous to the public, —and that I avow myself a coward at the prospect of the civil disorders which I think impending over my country.

Then, Sir, we are told,—as we were told in the case of the Catholics—that this measure is not final, and that it is sought only as a vantage ground from which it will be more easy to effect other innovations. I denied the disposition to encroach, with which the Catholics were charged; and however afflicting the condition of Ireland may now be, I appeal to every dispassionate man, whether the relief granted to them has not, on the whole, bettered the situation, and strengthened the security of the country. I was then taught by the Right Honourable Baronet*, that concession would divide loyal from disaffected opponents, and unite all friends of their country against those whose demands were manifestly insatiable. Is it not reasonable to expect some degree of the same benefits on the present occasion?

Nothing human is, in one sense of the word, final. Of a distant futurity I know nothing; and I am, therefore, altogether unfitted to make laws for it. Posterity may rightly measure their own wants, and

* Sir Robert Peel. — Ed.

their capacity, — we cannot; the utmost that we can aspire to, is to remove elements of discord from their path. But within the very limited horizon to which the view of politicians can reach, I have pointed out some reasons why I expect that a measure of concession, made in a spirit of unsuspecting confidence, may inspire the like sentiments, and why I believe that the people will acquiesce in a grant of these extensive privileges to those whose interests must be always the same as their own. After all, is it not obvious that the people already possess that power through their numbers, of which the exercise is dreaded? It is ours, indeed, to decide, whether they are to exert their force in the market-place, in the street, in the field, or in discussion, and debate in this House. If we somewhat increase their legal privileges, we must, also, in the same measure, abate their supposed disposition to use it ill.

On the great proprietors, much of the grace, — of the generous character, — of the conciliatory effect of this measure, must certainly depend. But its success cannot ultimately depend upon a single class. If they be deluded or enraged by tales of intimidation and of riot, — if they can be brought to doubt that there is in the public mind on the necessity of Reform any more doubt than is necessary to show the liberty of publishing opinion, — whenever or wherever they act on these great errors, they may abate the healing efficacy of a great measure of conciliation and improvement; but they cannot prevent its final adoption. Above all other considerations, I advise these great proprietors to cast from them those reasonings which would involve property in the approaching downfall of political abuse. If they assent to the doctrine that political privilege is property, they must be prepared for the inevitable consequence, — that it is no more unlawful to violate their possessions, than to resume a delegated trust. The suppression of de-

pendent boroughs is at hand: it will be the truest wisdom of the natural guardians of the principle of property, to maintain, to inculcate, to enforce the essential distinction between it and political trust, — if they be not desirous to arm the spoilers, whom they dread, with arguments which they can never consistently answer.

APPENDIX.

A.

THE first article in a wise plan of reformation, would, in our opinion, be the immediate addition of twenty Members to the House of Commons, to be chosen by the most opulent and populous of the communities which are at present without direct representation; with such varieties in the right of suffrage as the local circumstances of each community might suggest, but in all of them on the principle of a widely diffused franchise. In Scotland, Glasgow ought to be included: in Ireland we think there are no unrepresented communities to which the principle could be applied.

In endeavouring to show that this proposal is strictly constitutional, according to the narrowest and most cautious use of that term, — that it requires only the exercise of an acknowledged right, and the revival of a practice observed for several ages, we shall abstain from those controverted questions which relate to the obscure and legendary part of our Parliamentary history. A very cursory review of the authentic annals of the House of Commons is sufficient for the present purpose. In the writs of summons of the 11th of Edward I., the Sheriffs were directed (as they are by the present writ) to send two Members from *each* city and borough within their respective bailiwicks. The letter of this injunction appears, from the beginning, to have been disobeyed. The Crown was, indeed, desirous of a full attendance of citizens and burgesses, a class of men then subservient to the Royal pleasure, and who, it was expected, would reconcile their neighbours in the provinces to the burthen of Parliamentary grants; but to many boroughs, the wages of burgesses in Parliament were a heavy and sometimes an insupportable burthen: and this struggle between the policy of the Crown and the poverty of the boroughs, occasioned great fluctuation in the towns who sent Members to the House of Commons, in

the course of the fourteenth century. Small boroughs were often excused by the Sheriff on account of their poverty, and at other times neglected or disobeyed his order. When he persisted, petitions were presented to the King in Parliament, and perpetual or temporary charters of exemption were obtained by the petitioning boroughs. In the 1st of Edward III. the county of Northumberland and the town of Newcastle were exempted, on account of the devastations of the Scotch war. The boroughs in Lancashire sent no Members from the reign of Edward III. to that of Henry VI.; the Sheriff stating, in his returns, that there was no borough in his bailiwick able to bear the expense. Of one hundred and eighty-four cities and boroughs, summoned to Parliament in the reigns of the three first Edwards, only ninety-one continued to send Members in the reign of Richard II. In the midst of this great irregularity in the composition of the House of Commons, we still see a manifest, though irregular, tendency to the establishment of a constitutional principle, — viz. that deputies from all the most important communities, with palpably distinct interests, should form part of a national assembly. The separate and sometimes clashing interests of the town and the country, were not intrusted to the same guardians. The Knights of the Shire were not considered as sufficient representatives even of the rude industry and infant commerce of that age.

The dangerous discretion of the Sheriffs was taken away by the statutes for the regulation of elections, passed under the princes of the House of Lancaster. A seat in the House of Commons had now begun to be an object of general ambition. Landed gentlemen, lawyers, even courtiers, served as burgesses, instead of those traders, — sometimes, if we may judge from their names, of humble occupation, — who filled that station in former times. Boroughs had already fallen under the influence of neighbouring proprietors: and, from a curious passage in the Paston Letters (vol. i. p. 96.), we find, that in the middle of the fifteenth century, the nomination of a young gentleman to serve for a borough, by the proprietor, or by a great man of the Court, was spoken of as not an unusual transaction. From this time the power of the Crown, of granting representation to new boroughs, formed a part of the regular practice of the government, and was exercised without interruption for two hundred years.

In the cases of Wales, Chester, and long after of Durham, representation was bestowed by statute, probably because it was thought that no inferior authority could have admitted Members from those territories, long subject to a distinct government, into the Parliament of England. In these ancient grants of representation, whether made by the King or by Parliament, we discover a great uniformity of principle, and an approach to the maxims of our present constitution. In Wales and Chester, as well as in England, the counties were distinguished from the towns; and the protection of their separate interests was committed to different representatives: the rights of election were diversified, according to the local interests and municipal constitution of the several towns. In the preamble of the Chester Act, representation is stated to be the means of securing the county from the wrong which it had suffered while it was unrepresented. It was bestowed on Wales with the other parts of the laws of England, of which it was thought the necessary companion; and the exercise of popular privileges is distinctly held out as one of the means which were to quiet and civilize that principality. In the cases of Calais and Berwick, the frontier fortresses against France and Scotland,—where modern politicians would have been fearful of introducing the disorders of elections,—Henry the VIIIth granted the elective franchise, apparently for the purpose of strengthening the attachment, and securing the fidelity of their inhabitants. The Knights of the Shire for Northumberland were not then thought to represent Berwick sufficiently.

While we thus find in these ancient examples so much solicitude for an adequate representation of the separate interests of classes and districts, it is particularly worthy of remark, that we find no trace in any of them of a representation founded merely on numbers. The statute that gave representatives to Wales, was within a century of the act of Henry VI. for regulating the qualifications for the voters in counties; and on that subject as well as others, may be regarded as no inconsiderable evidence on the ancient state of the constitution. Had universal suffrage prevailed till the fifteenth century, it seems wholly incredible, that no trace of it should be found in the numerous Royal and Parliamentary grants of representation, which occur in the early part of the sixteenth. Mere accident

must have revived it in some instances; for it certainly had not *then* become an argument of jealousy or apprehension.

In the reigns of Edward the VIth, Mary, and Elizabeth, the struggles between the Catholic and Protestant parties occasioned a great and sudden increase of the House of Commons. Fourteen boroughs were thus privileged by the first of these Sovereigns, ten by the second, and twenty-four by Elizabeth. The choice, in the reign of Edward and Elizabeth, was chiefly in the western and southern counties, where the adherents of the Reformation were most numerous, and the towns were most under the influence of the Crown. By this extraordinary exertion of prerogative, a permanent addition of ninety-four Members was made to the House in little more than fifty years. James and Charles, perhaps, dreading the accession of strength which a more numerous House might give to the popular cause, made a more sparing use of this power. But the popular party in the House, imitating the policy of the ministers of Elizabeth, began to strengthen their Parliamentary influence by a similar expedient. That House had, indeed, no pretensions to the power of making new Parliamentary boroughs; but the same purpose was answered, by the revival of those which had long disused their privilege. Petitions were obtained from many towns well affected to the popular cause, alleging that they had, in ancient times, sent Members to Parliament, and had not legally lost the right. These petitions were referred to the Committee of Privileges; and, on a favourable report, the Speaker was directed to issue his warrant for new writs. Six towns (of which Mr. Hampden's borough of Wendover was one) were in this manner empowered to send Members to Parliament in the reign of James. Two were added in 1628 by like means, and six more by the Long Parliament on the very eve of the civil war.

No further addition was made to the representation of England except the borough of Newark, on which Charles II., in 1672, bestowed the privilege of sending burgesses to the House of Commons, as a reward for the fidelity of the inhabitants to his father. The right of the first burgesses returned by this borough in 1673 was questioned,—though on what ground our scanty and confused accounts of the Parliaemntary transactions of that period do not enable us to determine. The question was suspended for about three years; and at last, on the 26th of March, 1676, it was de-

termined, by a majority of one hundred and twenty-five against seventy-three, that the town *had* a right to send burgesses. But on a second division, it was resolved, by a majority of one, that the Members returned were not duly elected. And thus suddenly and somewhat unaccountably ceased the exercise of a prerogative which, for several centuries, had continued to augment, and, in some measure, to regulate the English representation.

Neither this, nor any other constitutional power, originated in foresight and contrivance. Occasional convenience gave rise to its first exercise: the course of time gave it a sanction of law. It was more often exercised for purposes of temporary policy, or of personal favour, than with any regard to the interest of the constitution. Its entire cessation is, however, to be considered as forming an epoch in the progress of our government. However its exercise might have been abused, its existence might be defended, on the ground that it was the constitutional means of remedying the defects of the representation. It was a tacit acknowledgment that a representative system must, from time to time, require amendment. Every constitutional reasoner must have admitted, that it was rightly exercised only in those cases where it contributed to the ends for the sake of which alone it could be justified. Its abuse consisted much more in granting the suffrage to insignificant villages, than in withholding it from large towns. The cases of the latter sort are very few, and may be imputed to accident and negligence, which would probably have been corrected in process of time. No such instance occurs with respect to any town of the first, or even of the second class. And, indeed, it cannot be supposed, that, before the disuse of that prerogative, four or five of the principal towns in the kingdom should have continued without representatives for more than a century. Whatever the *motive* might have been for granting representatives to Westminster by Edward VI., no *reason* could have been assigned for the grant, but the growing importance of that city. Lord Clarendon's commendation of the constitution of Cromwell's Parliament, to which Manchester, Leeds, and Halifax, then towns of moderate size, sent representatives, may be considered as an indication of the general opinion on this subject.

In confirmation of these remarks, we shall close this short review of the progress of the representation before the Revo-

lution, by an appeal to two legislative declarations of the principles by which it ought to be governed.

The first is the Chester Act (34 & 35 Hen. 8. c. 13.), the preamble of which is so well known as the basis of Mr. Burke's plan for conciliation with America. It was used against him, to show that Parliament might legislate for unrepresented counties; but it was retorted by him, with much greater force, as a proof from experience, and an acknowledgment from the Legislature, that counties in that situation had no security against misrule. The Petition of the inhabitants of Cheshire, which was adopted as the preamble of the Act, complained that they had neither knight nor burgess in Parliament for the said county-palatine; and that the said inhabitants, "for lack thereof, have been oftentimes touched and grieved with acts and statutes made within the said court." On this recital the Statute proceeds: — "For remedy thereof may it please your Highness, that it may be enacted, that, from the end of this present session, the said county-palatine shall have two knights for the said county-palatine, and likewise two citizens to be burgesses for the city of Chester."

The Statute enabling Durham to send knights and burgesses to Parliament, which has been less frequently quoted, is still more explicit on the purposes of the present argument: —

"Whereas the inhabitants of the said county-palatine of Durham have not hitherto had the liberty and privilege of electing and sending any knights and burgesses to the High Court of Parliament, although the inhabitants of the said county-palatine are liable to all payments, rates, and subsidies granted by Parliament, equally with the inhabitants of other counties, cities, and boroughs in this kingdom, who have their knights and burgesses in the Parliament, and are therefore concerned equally with others the inhabitants of this kingdom to have knights and burgesses in the said High Court of Parliament, of their own election, to represent the condition of their county, as the inhabitants of other counties, cities, and boroughs of this kingdom have .... Wherefore, be it enacted, that the said county-palatine of Durham may have two knights for the same county, and the city of Durham two citizens to be burgesses for the same city, for ever hereafter, to serve in the High Court of Parliament .... The elections of the knights to serve for the said county, from time to time hereafter, to be made by

the greater number of freeholders of the said county-palatine, which from time to time shall be present at such elections, accordingly as is used in other counties in this your Majesty's kingdom; and the election of the said burgesses for the city of Durham, to be made from time to time, by the major part of the mayor, aldermen, and freemen of the said city of Durham, which from time to time shall be present at such elections." This Statute does not, like the Chester Act, allege that any specific evil had arisen from the previous want of representatives; but it recognizes, as a general principle of the English constitution, that the interests of every unrepresented district are in danger of being overlooked or sacrificed, and that the inhabitants of such districts are therefore interested to have knights and burgesses in Parliament, "of their own election, to represent the condition of their country."

The principle is, in effect, as applicable to towns as to counties. The town of Newcastle had then as evident an interest in the welfare of the county of Durham, as the county of Warwick can now have in the prosperity of the town of Birmingham; but the members for Newcastle were not considered, by this statute, as sufficient guardians of the prosperity of the county of Durham. Even the knights who were to serve for the county, were not thought to dispense with the burgesses to serve for the city. As we have before observed, the distinct interests of country and town were always, on such occasions, provided for by our ancestors; and *a principle* was thereby established, that every great community, with distinct interest, ought to have separate representatives.

It is also observable, that the right of suffrage is not given to all the inhabitants, nor even to all the taxable inhabitants, but to the freeholders of the county, and freemen of the city, — who have a common interest and fellow-feeling with the whole. As these electors were likely to partake the sentiments of the rest of the inhabitants, and as every public measure must affect both classes alike, the members chosen by such a part of the people were considered as virtually representing all. The claim to representation is acknowledged as belonging to all districts and communities, to all classes and interests, — but not to all men. Some degree of actual election was held necessary to virtual representation. The guardians of the interests of the country were to be, to use the language of the preamble,

'of their own election;' though it evidently appears from the enactments, that these words imported only an election by a considerable portion of them. It is also to be observed, that there is no trace in this Act of a care to proportion the number of the new representatives to the population of the district, though a very gross deviation on either side would probably have been avoided.

When we speak of *principles* on this subject, we are not to be understood as ascribing to them the character of rules of law, or of axioms of science. They were maxims of constitutional policy, to which there is a visible, though not a uniform, reference in the acts of our forefathers. They were more or less regarded, according to the character of those who directed the public councils: the wisest and most generous men made the nearest approaches to their observance. But in the application of these, as well as of all other political maxims, it was often necessary to yield to circumstances, — to watch for opportunities, — to consult the temper of the people, the condition of the country, and the dispositions of powerful leaders. It is from want of due regard to considerations like these, that the theory of the English representation has, of late years, been disfigured by various and opposite kinds of reasoners. Some refuse to acknowledge any principles on this subject, but those most general considerations of expediency and abstract justice, which are applicable to all governments, and to every situation of mankind. But these remote principles shed too faint a light to guide us on our path; and can seldom be directly applied with any advantage to human affairs. Others represent the whole constitution, as contained in the written laws; and treat every principle as vague or visionary, which is not sanctioned by some legal authority. A third class, considering (rightly) the representation as originating only in usage, and incessantly though insensibly altered in the course of time, erroneously infer, that it is altogether a matter of coarse and confused practice, incapable of being reduced to any theory. The truth is, however, that out of the best parts of that practice have gradually arisen a body of maxims, which guide our judgment in each particular case; and which, though beyond the letter of the law, are better defined, and more near the course of business, than general notions of expediency or justice. Often disregarded, and never rigorously adhered to, they have no support but a general conviction, growing

with experience, of their fitness and value. The mere speculator disdains them as beggarly details: the mere lawyer asks for the statute or case on which they rest: the mere practical politician scorns them as airy visions. But these intermediate maxims constitute the principles of the British constitution, as distinguished, on the one hand, from abstract notions of government, and, on the other, from the provisions of law, or the course of practice. "Civil knowledge," says Lord Bacon, "is of all others the most immersed in matter, and the hardliest reduced to axioms." Politics, therefore, if they should ever be reduced to a science, will require the greatest number of intermediate laws, to connect its most general principles with the variety and intricacy of the public concerns. But in every branch of knowledge, we are told by the same great Master (Novum Organum), "that while generalities are barren, and the multiplicity of single facts present nothing but confusion, the middle principles alone are solid, orderly, and fruitful."

The nature of virtual representation may be illustrated by the original controversy between Great Britain and America. The Americans alleged, perhaps untruly, that being unrepresented they could not legally be taxed. They added, with truth, that being unrepresented, they ought not constitutionally to be taxed. But they defended this true position, on a ground untenable in argument. They sought for the constitution in the works of abstract reasoners, instead of searching for it in its own ancient and uniform practice. They were told, that virtual, not actual, representation, was the principle of the constitution; and that they were as much virtually represented as the majority of the people of England. In answer to this, they denied that virtual representation was a constitutional principle, instead of denying the fact, that they were virtually represented. Had they chosen the latter ground, their case would have been unanswerable. The unrepresented part of England could not be taxed, without taxing the represented: the laws affected alike the members who passed them, their constituents, and the rest of the people. On the contrary, separate laws might be, and were, made for America: separate taxes might be, and were, laid on her. The case of that country, therefore, was the very reverse of virtual representation. Instead of identity, there was a contrariety of apparent interest. The English landholder was to be relieved by an American revenue. The prosperity of

the English manufacturer was supposed to depend on a monopoly of the American market. Such a system of governing a great nation was repugnant to the principles of a constitution which had solemnly pronounced, that the people of the small territories of Chester and Durham could not be virtually represented without some share of actual representation. — *Edinburgh Review*, vol. xxxiv. p. 477.

B.

The principle of short Parliaments was solemnly declared at the Revolution. On the 29th of January 1689, seven days after the Convention was assembled, the following resolution was adopted by the House of Commons:— "That a Committee be appointed to bring in general heads of such things as are absolutely necessary to be considered, for the better securing our Religion, Laws, and Liberties." Of this Committee Mr. Somers was one. On the 2nd of February, Sir George Treby, from the Committee thus appointed, reported the general heads on which they had agreed. The 11th article of these general heads was as follows:—"That the too long continuance of the same Parliament be prevented." On the 4th of February it was ordered, "That it be referred to the Committee to distinguish such general heads as are introductive of new laws, from those that are declaratory of ancient rights." On the 7th of the same month, the Committee made their Second Report; and, after going through the declaratory part, which constitutes the Bill of Rights as it now stands, proposed the following, among other clauses, relating to the introduction of new laws:—"And towards the making a more firm and perfect settlement of the said Religion, Laws, and Liberties, and for remedying several defects and inconveniences, it is proposed and advised by [blank left for 'Lords'] and Commons, that there be provision, by new laws, made in such manner, and with such limitations, as by the wisdom and justice of Parliament shall be considered and ordained in the particulars; and in particular, and to the purposes following, viz. for preventing the too long continuance of the same Parliament." The articles which required new laws being thus distinguished, it was resolved on the following day, on the motion of Mr. Somers, "that

it be an instruction to the said Committee, to connect, to the vote of the Lords, such part of the heads passed this House yesterday as are declaratory of ancient rights; leaving out such parts as are introductory of new laws." The declaratory articles were accordingly formed into the Declaration of Rights; and in that state were, by both Houses, presented to the Prince and Princess of Orange, and accepted by them, with the crown of England. But the articles introductive of new laws, though necessarily omitted in a Declaration of Rights, had been adopted without a division by the House of Commons; who thus, at the very moment of the Revolution, determined, "that a firm and perfect settlement of the Religion, Laws, and Liberties," required provision by a new law, "for preventing the too long continuance of the same Parliament."

But though the principle of short Parliaments was thus solemnly recognized at the Revolution, the time of introducing the new law, the means by which its object was to be attained, and the precise term to be fixed for their duration, were reserved for subsequent deliberation. Attempts were made to give effect to the principle in 1692 and 1693, by a Triennial Bill. In the former year, it passed both Houses, but did not receive the Royal Assent: in the latter, it was rejected by the House of Commons. In 1694, after Sir John Somers was raised to the office of Lord Keeper, the Triennial Bill passed into a law.* It was not confined, like the bills under the same title, in the reigns of Charles I. and Charles II. (and with which it is too frequently confounded), to provisions for securing the frequent sitting of Parliament: it for the first time limited its duration. Till the passing of this bill, Parliament, unless dissolved by the King, might legally have continued till the demise of the Crown, — its only natural and necessary termination.

The Preamble is deserving of serious consideration: — "Whereas, by the ancient laws and statutes of this kingdom, frequent Parliaments ought to be held; and whereas frequent and new Parliaments tend very much to the happy union and good agreement of the King and People." The Act then proceeds, in the first section, to provide for the frequent holding of Parliaments, according to the former laws; and in the second and third sections, by enactments which were before unknown to our laws, to direct, that there

* 6 W. & M. c. 2.

shall be *a new Parliament every three years*, and that no Parliament shall have continuance longer than *three years at the farthest*. Here, as at the time of the Declaration of Rights, the holding of Parliaments is carefully distinguished from their election. The two parts of the Preamble refer separately to each of these objects: the frequent holding of Parliaments is declared to be conformable to the ancient laws; but the frequent election of Parliament is considered only as a measure highly expedient on account of its tendency to preserve harmony between the Government and the People.

The principle of the Triennial Act, therefore, seems to be of as high constitutional authority as if it had been inserted in the Bill of Rights itself, from which it was separated only that it might be afterwards carried into effect in a more convenient manner. The particular term of three years is an arrangement of expediency, to which it would be folly to ascribe any great importance. This Act continued in force only for twenty years. Its opponents have often expatiated on the corruption and disorder in elections, and the instability in the national councils which prevailed during that period: but the country was then so much disturbed by the weakness of a new government, and the agitation of a disputed succession, that it is impossible to ascertain whether more frequent elections had any share in augmenting the disorder. At the accession of George I. the duration of Parliament was extended to seven years, by the famous statute called the 'Septennial Act,' 1 Geo. I. st. 2. c. 38. the preamble of which asserts, that the last provision of the Triennial Act, "if it should continue, may probably at this juncture, when a restless and Popish faction are designing and endeavouring to renew the rebellion within this kingdom, and an invasion from abroad, be destructive to the peace and security of the government." This allegation is now ascertained to have been perfectly true. There is the most complete historical evidence that all the Tories of the kingdom were then engaged in a conspiracy to effect a counter-revolution, — to wrest from the people all the securities which they had obtained for liberty, — to brand them as rebels, and to stigmatise their rulers as usurpers, — and to re-establish the principles of slavery, by the restoration of a family, whose claim to power was founded on their pretended authority. It is beyond all doubt, that a general election at that period would have en-

dangered all these objects. In these circumstances the Septennial Act was passed, because it was necessary to secure liberty. But it was undoubtedly one of the highest exertions of the legislative authority. It was a deviation from the course of the constitution too extensive in its effects, and too dangerous in its example, to be warranted by motives of political expediency: it could be justified only by the necessity of preserving liberty. The Revolution itself was a breach of the laws; and it was as great a deviation from the principles of monarchy, as the Septennial Act could be from the constitution of the House of Commons: — and the latter can only be justified by the same ground of necessity, with that glorious Revolution of which it probably contributed to preserve — would to God we could say to perpetuate — the inestimable blessings.

It has been said by some, that as the danger was temporary, the law ought to have been passed only for a time, and that it should have been delayed till the approach of a general election should ascertain, whether a change in the temper of the people had not rendered it unnecessary. But it was necessary, at the *instant*, to confound the hopes of conspirators, who were then supported and animated by the prospect of a general election: and if any period had been fixed for its duration, it might have weakened its effects, as a declaration of the determined resolution of Parliament to stand or fall with the Revolution.

It is now certain, that the conspiracy of the Tories against the House of Hanover, continued till the last years of the reign of George II. The Whigs, who had preserved the fruits of the Revolution, and upheld the tottering throne of the Hanoverian Family during half a century, were, in this state of things, unwilling to repeal a law, for which the reasons had not entirely ceased. The hostility of the Tories to the Protestant succession was not extinguished, till the appearance of their leaders at the court of King George III. proclaimed to the world their hope, that Jacobite principles might re-ascend the throne of England with a monarch of the House of Brunswick.

The effects of the Septennial Act on the constitution were materially altered in the late reign, by an innovation in the exercise of the prerogative of dissolution. This important prerogative is the buckler of the monarchy: it is intended for great emergencies, when its exercise may be the only means of averting immediate danger from the throne: it is

strictly a defensive right. As no necessity arose, under the two first Georges, for its defensive exercise, it lay, during that period, in a state of almost total inactivity. Only one Parliament, under these two Princes, was dissolved till its seventh year. The same inoffensive maxims were pursued during the early part of the reign of George III. In the year 1784, the power of dissolution, hitherto reserved for the defence of the monarchy, was, for the first time, employed to support the power of an Administration. The majority of the House of Commons had, in 1782, driven one Administration from office, and compelled another to retire. Its right to interpose, with decisive weight, in the choice of ministers, as well as the adoption of measures, seemed by these vigorous exertions to be finally established. George II. had, indeed, often been compelled to receive ministers whom he hated: but his successor, more tenacious of his prerogative, and more inflexible in his resentment, did not so easily brook the subjection to which he thought himself about to be reduced. When the latter, in 1784, again saw his Ministers threatened with expulsion by a majority of the House of Commons, he found a Prime Minister who, trusting to his popularity, ventured to make common cause with him, and to brave that Parliamentary disapprobation to which the prudence or principle of both his predecessors had induced them to yield. Not content with this great victory, he proceeded, by a dissolution of Parliament, to inflict such an exemplary punishment on the majority, as might deter all future ones from following their dangerous example.

The ministers of 1806 gave some countenance to Mr. Pitt's precedent, by a very reprehensible dissolution: and in 1807, its full consequences were unfolded. The House of Commons was then openly threatened with a dissolution, if a majority should vote against Ministers; and in pursuance of this threat, the Parliament was actually dissolved. From that moment, the new prerogative of penal dissolution was added to all the other means of ministerial influence.

Of all the silent revolutions which have materially changed the English government, without any alteration in the letter of the law, there is, perhaps, none more fatal to the constitution than the power thus introduced by Mr. Pitt, and strengthed by his followers. And it is the more dangerous, because it is hardly capable of being counteracted by direct laws. The prerogative of dissolution, being

a means of defence on sudden emergencies, is scarcely to be limited by law. There is, however, an indirect, but effectual mode of meeting its abuse: — by shortening the duration of Parliaments, the punishment of dissolution will be divested of its terrors. While its defensive power will be unimpaired, its efficacy, as a means of influence, will be nearly destroyed. The attempt to reduce Parliament to a greater degree of dependence, will thus be defeated; due reparation be made to the constitution; and future ministers taught, by a useful example of just retaliation, that the crown is not likely to be finally the gainer, in struggles to convert a necessary prerogative into a means of unconstitutional influence. — *Ibid.* p. 494.

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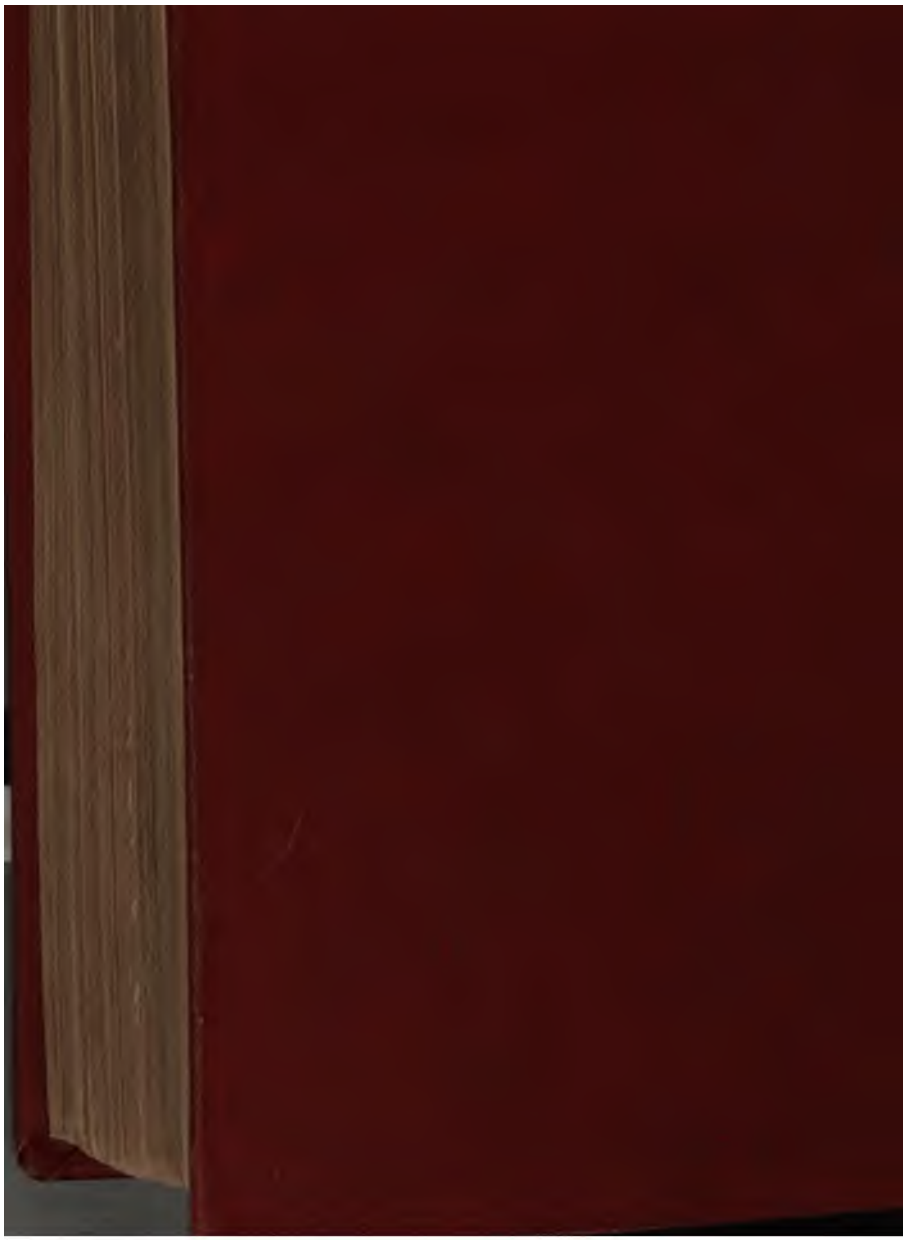
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